

Accessing Children's Right to Play in Türkiye within the Fundamental Principles of the United Nations Convention on Children's Rights



Burçak Bal Yalçın¹  

¹ Researcher, İstanbul, Türkiye

Abstract

In this study, the legal characteristics and the accessibility of the right to play, accepted as a fundamental children's right in United Nations Convention on the Rights of Child (UNCRC), are analyzed within the context of Türkiye. This analysis considers the issue regarding the fundamental principles of the UNCR: non-discrimination, the best interest of the child, the right to survival and development and the views of the child. According to Article 31/1 of the UNCRC, "States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts." The barriers to accessibility of the right to play result in the violation of the fundamental principles of the UNCRC and the UNCRC itself. The importance and the legal characteristics of the right to play has been addressed within the scope of the adults' approaches in the field of urban, educational and cultural policies and examined in the context of the barriers faced by particular groups and exceptions. This paper aims to promote the mentioned right as a fundamental right by examining the legislation and practice in Türkiye.

Keywords

Children's rights · fundamental principles of UNCRC · Article 31 of the UNCRC · right to play · accessing right to play · barriers on right to play



Citation: Bal Yalçın, B, 'Accessing Children's Right to Play in Türkiye within the Fundamental Principles of the United Nations Convention on Children's Rights' (2025) 77 Annales de la Faculte de Droit d'Istanbul 131. <https://doi.org/10.26650/annaes.2025.78.1626556>

 This work is licensed under Creative Commons Attribution-NonCommercial 4.0 International License. 

© 2025. Bal Yalçın, B.

 Corresponding author: Burçak Bal Yalçın burcak.bal@hotmail.com



I. Introduction

In the Turkish law literature, studies on children's rights do not typically focus on the "right to play".¹ Mostly, the studies regarding the right to play were assessed under the disciplines of architecture, urban studies, educational science and psychology, but law.² As such, it is a fact that the mentioned right has not yet received much attention from the legal discipline; thus, it is "a forgotten right"³ within the economic, social and environmental context by lawyers.

With regard to the universal value of the right to play, the UNCRC, signed by 196 states worldwide, provides a legal sphere to the mentioned right as a fundamental right.⁴ According to Article 31/1 of the UNCRC, "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." Although the state parties do not attach importance to this right primarily, the Committee on the Rights of the Child provides respect to the encouragement of the mentioned right.⁵ In fact, UNCRC, considering the right to play as a fundamental right, does not differentiate between the rights; conversely, it is remarked that these rights complete each other.⁶

The right to play is stated as "least understood and mostly consistently ignored" in the International Play Association's report in 2010.⁷ Almost 15 years later, this study aims to emphasize the importance of the right to play by asserting the relation between fundamental children's rights and the mentioned rights. Accordingly, the first section will feature the legal characteristics of the right to play and its correlation with the basic principles of the UNCRC. Under the second section, the legal and practical obstacles that lead to infringement of the rights outlined in the UNCRC will be elaborated. Finally, relevant regulations under Turkish national legislation and practice in Türkiye will be discussed.

¹In the Turkish law literature for sample studies on this subject, see Ayşenur Şahin Caner, 'Kat Mülkiyeti Kanunu Kapsamında Çocukların Ortak Yerlerde Oyun Oynama Haklarının Sınırlandırılması Sorunu' (2024) (60) Türkiye Adalet Akademisi Dergisi, 401-422; Demet Çeliktaş Özdamar, 'Almanya'da, Özellikle Berlin Eyaleti'nde Çocuk Bahçeleri (Oyun Alanları) ile İlgili Hukukî Düzenleme ve Türk Hukuku'nda Durum' (2000) Prof. Dr. Seyfullah EDİS'e Armağan, 187-21.

²The foreign literature has also mentioned the insufficiency of rights-based studies on this subject. Ciara Davey and Laura Lundy, 'Towards Greater Recognition of the Right to Play: An Analysis of Article 31 of the UNCRC' (2011) 25 Children&Society, 3; Besides, it is a current legal reference. For detailed information, see Naomi Lott, 'A Framework for Implementing the Right of the Child to Play: Space, Time, Acceptance, Rights-Informed' (2024) (17/2024) UCL Research Paper Series. For other studies of the author on the subject, see Naomi Lott, 'Establishing the Right to Play as an Economic, Social and Cultural Right' (2022) 30 The International Journal of Children's Rights, 755-784; Naomi Lott, 'The Right to Play' (2020) The University of Nottingham PHD Thesis.

³Rachel Hodgkin and Peter Newell, *Implementation Handbook For the Convention Rights of the Child*, (fully revised 3rd edn, United Nations Publications 2007), 469; İstanbul Büyükşehir Belediyesi, *İstanbul Oyun Master Planı* in Prof. Dr. Yasin Çağatay Seçkin (ed) (2019) 16 <<https://yesil.istanbul/storage/public/2022/08/02/62e903f255b55-oyun-master-planı.pdf>> accessed 1 July 2024.

⁴For the full text of the United Nations, Convention on the Rights of the Child (1989) see, <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 26 July 2024.

⁵Hodgkin and Newell (n3), 47; Jane Waters-Davies, *Introduction to Play* (SAGE Publications 2022) 21; As stipulated in Article 43 of the Convention, The Committee on the Rights of the Child works as a supervisory body. Accordingly Article 44 mentioned Committee examines the progress reports regarding the implementation of the UNCRC. The Article 45/d of UNCRC states that "The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties."

⁶Emine Akyüz, *Çocuk Hukuku, Çocukların Hakları ve Korunması* (7 th edn, Pegem Akademi 2020), 45; The Committee states that "Article 31 must be understood holistically, both in terms of its constituent parts and also in its relationship with the Convention in its entirety.", Committee on the Rights of the Child, 'General comment No.17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art.31)', para 8 (CRC/C/GC/17 para 8.)

⁷International Play Association, 'Promoting the Child's Right to Play' (2010) IPA Global Consultations on Children's Right to Play, 9. <https://www.harryshier.net/docs/IPA_Global_Report_full.pdf> accessed 25 August 2024.

II. Right to Play within the context of the UNCRC

A. The Importance and Legal Characteristics of the Right to Play

In examining the history of children's rights, it becomes clear that there is an improvement in the understanding of the mentioned right starting from "protection" idea to granting it as an "individualistic right".⁸ The progress in the idea of taking the child as the subject of the rights parallels the development of human rights thought in the 20th century.⁹ The UNCRC is considered as the "*Magna Carta of Children or the Bill of Rights of Children*"¹⁰ and "*basis of the independency of child law*"¹¹, and based upon the view that the child is the subject of the law.¹² The UNCRC collects the fundamental children's rights under four leading groups: the right to survival, the right to protection, the right to development and the right to participation.¹³

As is known, childhood is a process of children's development with the mental, emotional and social dimensions.¹⁴ It is highlighted that this is the period in which childhood is not only about physical growth but also about preparing for adulthood.¹⁵ Play is considered as "*one of the most effective learning processes for the child as a part of life*"¹⁶ and many scientific research results have put forth the contribution of play to children's physical, cognitive, emotional, and social skills.¹⁷ In this context, play, due to its importance as an essential and fundamental need for the development of children¹⁸, is entitled as a right in the UNCRC dated 1989, to which Türkiye is a party.¹⁹

The right to play was first guaranteed by the clause "*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 endeavor to promote the enjoyment of this right.*" that is included in the 7th Principle of the 1959 Declaration of the Rights of Children.²⁰ Afterwards, Article 31 of the UNCRC articulates the right to play and enjoins the state parties to provide the enjoyment of this right.²¹ By doing that, Article 31 provides for the

⁸Müberra Algan, *Anayasa Hukukunda Çocuk Hakları* (On İki Levha Yayıncılık 2021) 7-9 and 79.

⁹Memduh Cemil Şirin, 'Çocuk Hukuku Ne Değildir?' (2016) (1) Çocuk ve Medeniyet, 51.

¹⁰Tekin Akıllıoğlu, *Çocuk Haklarına Dair Sözleşme* (AÜSBF İnsan Hakları Merkezi Yayınları 1995), 1.

¹¹Rona Serozan, *Çocuk Hukuku* (No 48, Vedat Kitapçılık 2005), 1.

¹²Algan (n8), 3.

¹³Akyüz (n8), 6; Hayrunnisa Özdemir and Ahmet Cemal Ruhi, *Çocuk Hukuku* (7 the edn, On İki Levha Yayıncılık 2024) 4.

¹⁴Emel Koç, 'Atatürk, Cumhuriyet ve Çocuk Ruhunu' (2010) (45) Atatürk Üniversitesi Türk İnkilâp Tarihi Enstitüsü Atatürk Yolu Dergisi, 73.

¹⁵Yasemin Mamur Işıklı, '*Sosyal Politika Açısından Türkiye'de Çocuk Hakları Sorunu: Alana İlişkin Bir Araştırma*', (2013) İnönü Üniversitesi Yayınlanmamış Doktora Tezi, 30; Betül Alan, 'Çocuk Dostu Kent Uygulamaları: Londra ve Bursa Kentlerinin Karşılaştırılması', in Talha Erdoğan, Şeyda Karabatak (eds.), 11. Türkiye Lisansüstü Çalışmalar Kongresi Mardin, Bildiriler Kitabı (Mimarlık ve Şehircilik, Siyaset Bilimi, Sosyal Politikalar ve Tarih 2023), 31. For an approach that follows the child's development by taking into account that the child's lives his/her current period in the most favorable conditions, see Sevil Kurt, 'Çocuk Haklarına İlişkin Temel Uluslararası Belgeler ve Türkiye Uygulaması', (2016) (36) Sosyal Politika Çalışmaları Dergisi, 112.

¹⁶Duru Özden Gürbüz, 'Geleneksel Çocuk Oyunları ve Eğitimsel İşlevleri: Emirdağ Örneği' (2016) 11(14) Turkish Studies International Periodical for the Languages, Literature and History of Turkish or Turkic, 536; Çakırer Özservet states that "*play is the only but most diverse and most entertaining form of learning about this life*", see Yasemin Çakırer Özservet, 'Kent havası çocuğu özgür kılar mı?' in Gonca Uludağ and Müzeyyen Altunbay (eds.), *Çocuk Üzerine Araştırmalar* (Astana 2018), 91.

¹⁷See CRC/C/GC/17 para 8-9; Committee on the Rights of the Child, 'General Comment No.26 (2023) on children's rights and the environment, with a special focus on climate change' para 59 (CRC/C/GC/26 para 59).

¹⁸Hodgkin and Newell (n3), 469; İstanbul Büyükşehir Belediyesi (n3), 20; CRC/C/GC/17 para 9; "*Children's right to play is sometimes referred to as the "forgotten right", perhaps because it appears to the adult world as a luxury rather than a necessity of life, and because children always find ways and means of playing, even in the most dire circumstances. But play is an essential part of development: children who are unable to play, for whatever reason, may lack important social and personal skills.*" Hodgkin and Newell (n3), 469.

¹⁹Nihat Topaç, Musa Bardak and Duygu Diğdem Ünal, 'Çocuğun Oyun Hakkı ve Oyun Hakkına Erişememe Sebepleri' in Prof. Dr. Giray Saynur Derman (ed) 5. Uluslararası Sosyal Beşeri ve Eğitim Bilimleri Kongresi, 5th International Congress On Social Sciences-Humanities and Education (Güven Plus Grup A.Ş. Yayınları 2019), 677.

²⁰CRC/C/GC/17 para 1.

²¹Ibid.

most comprehensive definition of the right to play.²² For the healthy completion of the development of children, the support they need is encumbered by the Convention to state parties.²³ The right to play is included in the categories of development rights²⁴, which are "...*fundamental for the child to best reveal his/her talents.*"²⁵ It may be asserted that the Convention assessed children from a human rights perspective²⁶ and included the right to play among other rights.²⁷

Literally, the definition of the play is as follows: "*Entertainment that develops talent and intelligence, has certain rules, and helps to have a good time...*"²⁸ Based on this definition, taking the right to play just from an adult's perspective or regarding it as a recreation and leisure activity would ignite the child-specific character and cultural impact of this right. In addition, Lester and Russell state "*some key themes*" of play by relating it to the nature and importance of play as "*The very things that distinguish play from other behaviours – its voluntary, pleasurable and 'as if' creation of uncertainty – enable children to approach their environments in highly flexible and adaptive ways.*"²⁹ UNICEF stresses that this right does not only provide entertainment.³⁰ Although it is not clear in the provision how these obligations will be fulfilled³¹ as was expressed by the Committee, Article 31 shall be tackled with all elements, and each shall be considered concerning the prominence and contribution to the development, social adaption, and accessibility of the other rights.³²

Although the Convention contains mostly non-self-executing provisions, this does not mean that compliance with the rules of the UNCRC is optional.³³ The Convention is binding with all its provisions. Thus, Article 4 states the responsibilities of the state parties, taking legal, administrative, and other measures to implement the rights entitled to the child. It also imposes an obligation to the states parties to allocate their financial sources regarding economic, social and cultural rights and, if necessary, to take measures within the framework of international cooperation.³⁴ The mentioned right is one of the economic, social, and

²²Rengarenk Umutlar Derneği, *Suriçi'nde Çocuk Olmak Suriçi'nde Çocukların Oyun Hakkını İzleme Raporu 2021*, 20 <https://www.stgm.org.tr/sites/default/files/2021-06/suricinde-cocuk-olmak_0.pdf> accessed 1 July 2024; "*The recognition of play as a right is one of the most innovative aspects of the UNCRC.*" Davey and Lundy (n2) 4; However, it is emphasized that the context of the right to play in the Convention is insufficient to determine the purposes of play. Hodgkin and Newell (n3), 470.

²³Akıllıoğlu (n10), 4; Algan (n8), 217.

²⁴54 articles of the Convention are classified as provision (survival and development) rights, protection rights and participation rights. See, Kornelija Mrnjajus, 'The Child's Right to Play?', (2014) (16) *Crotian Journal Education*, 219; Waters-Davies (n5),14.

²⁵Akyüz (n6),6; As the same parallel, see Topaç and Bardak and Ünal, s.676. "*Research evidence highlights that playing is also central to children's spontaneous drive for development, and that it performs a significant role in the development of the brain, particularly in the early years. Play and recreation facilitate children's capacities to negotiate, regain emotional balance, resolve conflicts and make decisions.*" CRC/C/GC/17 para 9.

²⁶Memduh Cemil Şirin, 'Tom Liefaard ile Çocuk Hakları Sözleşmesi'nin 30 Yılı Üzerine Söyleşi' (2019) 4 (8) *Çocuk ve Medeniyet*, 241-246.

²⁷"*Children's rights, like human rights, are inalienable, this means that they can-not be taken away. Article 31 means that play is not a reward that needs to be earned by children enacting certain behaviours or completing certain tasks; the right to play cannot be removed as a reprimand or punishment.*" Waters- Davies (n5) 16.

²⁸Türk Dil Kurumu Sözlükleri, <> accessed 10 October 2024.

²⁹Stuart Lester and Wendy Russell, 'Children's right to play: An examination of the importance of play in the lives of children worldwide' (2010) (57) *The Hague, The Netherlands: Bernard van Leer Foundation Working Paper*, 14.

³⁰UNICEF states that "*Play isn't just fun, it's fundamental to children's development. Play creates powerful learning opportunities – intellectual, social, emotional and physical. Through play, children make connections with others, build leadership skills, develop resilience, navigate challenges and conquer their fears.*" see <<https://www.unicef.org/parenting/day-of-play>> accessed 12 December 2024.

³¹Waters-Davies (n5), 15.

³²CRC/C/GC/17 para 8; Lott interprets the definitions of rest, leisure and play in the CRC/C/GC/17 para 8 as follows: "*These definitions differentiate between the Article 31 rights and confirm that the right to play is unique. This justifies examination of the right to play as a standalone right. Elements of these definitions demonstrate the interrelated nature of these rights. The right to play would not, for example, be realised if a child did not have their rights to rest and leisure realised, as time and space for play would not be afforded.*" Lott, 'The Right to Play' (n2) 18-19.

³³Dolunay Özbek Dalyan and İnci Ataman Fıganmeşe, 'Çocuk Haklarına Dair Sözleşme' (Kitap İncelemesi), (1996) (1-2), *Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni*, 216.

³⁴Article 4 of UNCRC: "*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.*"

cultural rights that entitles children to develop in society and access to public services.³⁵ The Committee, drawing attention to the historical background of the international recognition of the importance of play for children³⁶, stresses the three distinctive aspects of the responsibilities of the state parties with this article:³⁷ respect, protect and fulfill the rights in Article 31.

B. Relationship Between Access to the Right to Play and the Fundamental Principles of the Convention

The fundamental principles stipulated by the UNCRC include non-discrimination, the best interest of the child, the right to survival and development and the views of the child. These fundamental principles also set “*standards of legality of the acts concerning children*”.³⁸ The state organs shall consider these four aforementioned principles when fulfilling their functions, as a violation of these principles causes the infringement of the UNCRC.

One of the basic principles, “the best interests of the child”³⁹, serves as a “guide” in overcoming the difficulties encountered and granting rights to children.⁴⁰ The duties of the state to provide the best interest of children are not secondary and are not limited just to the supervision and support activities for parents.⁴¹ In accordance with the abovementioned principle, the legislative body shall make regulations based on this principle. The administration shall implement its procedures and actions in accordance with the principle, and the judiciary shall decide by prioritizing the best interests of the child.⁴² The Committee emphasized the importance of Article 31 for the child's best interest in General Comment No 17 “on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts.”⁴³ By the mentioned Comment it is stated that the principle shall be taken into consideration in the implementation of Article 31. It is among the fields to which the Committee draws attention to “*...regulations relating to health and safety, solid waste disposal and collection, residential and transportation planning, design and accessibility of the urban landscape, provision of parks and other green spaces, determination of school hours, child labour and education legislation...*”⁴⁴ The areas highlighted by the Committee play a leading role in the accessibility of the right to play and the violation of this right.

The right to development embodied in the second paragraph of Article 6 of the UNCRC is the basis of regulating and acknowledging children's rights, especially in terms of the characteristics of children.⁴⁵ In accordance with this provision, “*States Parties shall ensure to the maximum extent possible the survival and development of the child.*” In fact, The Committee included this article in its General Comment No 17, which is related to the general principles of the UNCRC. Within the scope of this article, attention is drawn to the

³⁵Akyüz (n6), 75; For detailed information see Lott, 'Establishing the Right to Play' (n2) 755-784.

³⁶CRC/C/GC/17 para 1.

³⁷CRC/C/GC/17 para 54.

³⁸Algan (n8), 216.

³⁹Article 3/1 of UNCRC: “*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*”

⁴⁰Serozan (n11), 66; As the same parallel, see Akyüz (n6), 12.

⁴¹Akyüz (n6), 5.

⁴²Akyüz (n6), 12; For an approach that it is necessary to see the principle of the best interest of the child as a fundamental principle that binds the administration, see Memduh Cemil Şirin, 'Çocuğun Yararı Gözüyle Çocuğun Yüksek Yararı İlkesine Bakış' (2019) 4 (8) Çocuk ve Medeniyet, 219-240.

⁴³CRC/C/GC/17 paras 8-13.

⁴⁴CRC/C/GC/17 para 17.

⁴⁵Algan (n8), 216-217.

need for the right to be recognized in all its aspects, to be applied to children of all age groups, and to bring play to the forefront.⁴⁶

The regulation regarding the prohibition of discrimination stipulated in Article 2 of the UNCRC has been described as “*equality manifesto*” with the feature that it accepts children as equal to adults and treats them equally among themselves, in line with the understanding of the child as a subject of the right.⁴⁷ According to this article “*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.*” The prohibition of discrimination that dominates the UNCRC is inherent in access to the right to play with Article 31/2 that states “*States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.*”

In the literature, the most concrete manifestation of inequality regarding the right to play generally emerges in playgrounds. Nevertheless, it is not possible to deny that the common violations of children's rights can be seen in particular cases such as child labor, children dragged into crime, sick children in need of long-term treatment, child brides, and disabled children.⁴⁸ When addressing the groups of children defined as “*groups requiring particular attention to realize their rights under article 31*” by the Committee, it is observed that a clear connection between this determination and the prohibition of discrimination is found. The Committee emphasized the groups requiring particular attention issue in the General Comment No 17 and identified children who need particular attention as: “*girls, children living in poverty, children with disabilities, children in institutions, children from indigenous and minority communities, children in situations of conflict, humanitarian and natural disasters*”.⁴⁹

The right to participation is included for the first time in the UNCRC⁵⁰ in Article 12. This article imposes an obligation on state parties to allow the child to freely express his or her views. According to the mentioned provision the right to participation provides expressing 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.*” Play is assessed as “*a primary form of participation*”.⁵¹ On the other hand, the protectionist approach emerges as an obstacle in the implementation of this principle.⁵² In order to implement the principle, it is necessary to avoid some models of non-participation that rely on the manipulation or imposition of adults.⁵³ In its

⁴⁶CRC/C/GC/17 para 18.

⁴⁷Serozan (n11), 60.

⁴⁸Topaç and Bardak and Ünal, (n19), 678.

⁴⁹CRC/C/GC/17 paras 48-53. According to CRC/C/GC/17 para 16: “*Particular attention should be given to addressing the rights of certain groups of children, including, inter alia, girls, children with disabilities, children living in poor or hazardous environments, children living in poverty, children in penal, health-care or residential institutions, children in situations of conflict or humanitarian disaster, children in rural communities, asylum-seeking and refugee children, children in street situations, nomadic groups, migrant or internally displaced children, children of indigenous origin and from minority groups, working children, children without parents and children subjected to significant pressure for academic attainment.*”

⁵⁰Emine Akyüz, ‘Çocuk Hakları Sözleşmesinin Temel İlkeleri Işığında Çocuğun Eğitim Hakkı’ (2001) (151) Milli Eğitim Dergisi, <https://dhgm.meb.gov.tr/yayimlar/dergiler/Milli_Egitim_Dergisi/151/akyuz.htm> accessed 12 August 2024; Ercüment Erbay, ‘Çocukların Katılım Hakkı Üzerine Bir Türkiye Değerlendirmesi’ (2013) İnsan ve Toplum Bilimleri Araştırmaları Dergisi, 39.

⁵¹Lester and Russel (n29), ix as cited in Johan Meire, ‘Qualitative research on children's play: a review of recent literature’ in Jambour, T. and Van Gils, J. (eds) Several Perspective on Children's Play: Scientific Reflections for Practitioners (Antwerp: Garant 2007).

⁵²Yasemin Çakırer Özservet “Çocuklar için Katılımcı Yerel Yönetimler” in Doç. Dr. Ercüment Erbay (ed) (Nobel 2016), 120.

⁵³For detailed information about “*models of non-participation*”, see Roger A. Hart, *Children's Participation: From Tokenism to Citizenship* (UNICEF Innocenti Essays 1992), 9; For detailed information in Turkish literature, see Serdar Değirmencioğlu, ‘Tersten Katılım: Katılım Hakkı Üzerine Bir Değerlendirme’, (2010) Birleşmiş Milletler Çocuk Haklarına Dair Sözleşme'nin 20. Yılında Türkiye'de Çocuk Hakları (Maya Akademi ve Sosyal Hizmet Uzmanları Derneği Genel Merkezi Yayını, 2010) as cited in Erbay (n50) 38-54.

evaluation in the context of Article 15 of the UNCRC⁵⁴, the Committee draws attention to play as an element that brings children close together and contributes to the development of society.⁵⁵ The Committee's General Comment No 12, "the child's right to be heard", expresses the importance of consulting children's views in ensuring access to the right to play.⁵⁶

III. Bars on Children's Access to the Right to Play

The UNCRC entitles the right to play as a fundamental right, yet in practice, barriers to children's right to play mostly shut the door on access to the mentioned right. There is a correlation between the "invisibility" regarding the right to play and the approaches of adults and the state on the mentioned right.⁵⁷ Approaches in society regarding play and children affect the accessibility to the right. Even political, social, and economic conditions are decisive here.⁵⁸ In examining General Comment No 17, it is observed that the bars are mostly related to the urban, education and cultural policies.⁵⁹ Additionally, children who require particular attention are addressed under a separate heading. Herein, most notably, the intersectional features of obstacles categorized in distinctive headings should be stressed. Obstacles related to ordinary situations and groups increasingly prevent access to rights for special situations and groups. At this point, it is evident that the right to play has almost been faded away. All occasions, whether it be ordinary or extraordinary, as regards to the barriers would constitute a violation of the right to play, in turn the infringement of the UNCRC.⁶⁰

A. Adults' Approaches in the field of Urban, Educational and Cultural Policies⁶¹

Though the right to play is very well accepted by most of the states in the World, today it is still a forgotten

⁵⁴Article 15/1 of UNCRC: "States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly."

⁵⁵CRC/C/GC/17 para 21.

⁵⁶Committee on the Rights of the Child, 'General Comment No.12 (2009) The right of the child to be heard' para 115 (CRC/C/GC/12 para 115): "Children require play, recreation, physical and cultural activities for their development and socialization. These should be designed taking into account children's preferences and capacities. Children who are able to express their views should be consulted regarding the accessibility and appropriateness of play and recreation facilities. Very young children and some children with disabilities, who are unable to participate in formal consultative processes, should be provided with particular opportunities to express their wishes."

⁵⁷Rengarenk Umutlar Derneği (n22), 20; See CRC/C/GC/17 para 2.

⁵⁸Topaç and Bardak and Ünal (n19), 677.

⁵⁹See CRC/C/GC/17 paras 33-47; In General Comment No.7 (2005) Implementing child rights in early childhood is noted: "... Play is one of the most distinctive features of early childhood. Through play, children both enjoy and challenge their current capacities, whether they are playing alone or with others. The value of creative play and exploratory learning is widely recognized in early childhood education. Yet realizing the right to rest, leisure and play is often hindered by a shortage of opportunities for young children to meet, play and interact in child-centred, secure, supportive, stimulating and stress-free environments. Children's right-to-play space is especially at risk in many urban environments, where the design and density of housing, commercial centres and transport systems combine with noise, pollution and all manner of dangers to create a hazardous environment for young children. Children's right to play can also be frustrated by excessive domestic chores (especially affecting girls) or by competitive schooling. Accordingly, the Committee appeals to States Parties, non-governmental organizations and private actors to identify and remove potential obstacles to the enjoyment of these rights by the youngest children, including as part of poverty reduction strategies. Planning for towns, and leisure and play facilities should take account of children's right to express their views (art. 12), through appropriate consultations. In all these respects, States Parties are encouraged to pay greater attention and allocate adequate resources (human and financial) to the implementation of the right to rest, leisure and play." CRC/C/GC/7/Rev.1 para. 34. (accessed

⁶⁰In a comparative research it has been found out that "For the time being, the entry into force of General Observation No. 17 has not led to a significant change in which the States Parties' pay greater attention to the child's right to play. The Committee has slightly increased the number of recommendations, but it still draws the States Parties' attention to the need to comply with article 31 in a very limited way." See Andrés Payà Rico and Jaume Bantulà, 'Children's Right to Play and Its Implementation: A Comparative, International Perspective' (2021) 10(2) Journal of New Approaches in Education Research, 290.

⁶¹A recent and comprehensive examination of the legal nature of the right to play shows that similar findings have been reached regarding comparative law. The study is based on empirical and archival research and literature analysis. As a result of examining more than 600 Committee reports, four core and critical factors were determined to implement the right to play. The study examined the right to play in the context of "space, time, acceptance, and rights-informed" factors, as well as accessibility, availability, acceptability, and quality criteria. We agree with the conclusions of this important study and we included adults' approach as a general and basic heading because this approach is the primary determinant of all other factors, including particular situations. For detailed information, see Lott, 'The Right to Play' (n2).

right as described by its “underestimation”.⁶² Such a view could be explained by adults’ perspectives on play where these adults refer to the ones in policy making, who are professionals and caregivers.⁶³ The Committee stresses how to understand and take the issue in hand as referring to adults and underlines that “...play is perceived as “deficit” time spent in frivolous or unproductive activity of no intrinsic worth” and “adults often lack the confidence, skill or understanding to support children’s play and to interact with them in a playful way.”⁶⁴ The utmost obstacle regarding the right to play is the adults and their attitudes, whose rights have been violated when they had been children back in time.⁶⁵

The right to play has been discussed mainly in the context of the relation between children and the city. One of the main obstacles for children to access the right to play is the lack of an effective voice in decisions regarding the city where they live.⁶⁶ However, children need a city that “...has a system of governance committed to the full implementation of the UN Convention on the Rights of the Child” that is called “child friendly city”.⁶⁷ The significant problem within the child-city relation is neglecting children’s needs while planning the city. The perspective towards children affects the difference between the cities where children live and the current state of cities.⁶⁸ Providing the right to play is possible through urban policies that include children’s needs in the city planning process.⁶⁹ Here, it is essential to remember the significance of children’s participation in the process.⁷⁰ The guiding principles of child friendly cities that UNICEF lists are “equity and inclusion, accountability and transparency, public participation, effectiveness and responsiveness, adaptability and sustainability”.⁷¹ At this point, it becomes clear that the basis of the reasons for negligence and apathy towards playgrounds is the approach towards children who are not represented in city administration and do not have the right to vote⁷²; in turn, the children are politically underrepresented.⁷³ In its General Comment No 17 the Committee makes it clear that the supreme obstacle to access the right to play arises out of the security and adequacy of playgrounds.⁷⁴ The obstacle to children’s right to live in a safe city also obstructs their right to play.⁷⁵ Security matters are not only a general daily life issue but also remarkably peculiar to playgrounds.⁷⁶ According to research, adequacy involves accessibility and availability.⁷⁷

⁶²İstanbul Büyükşehir Belediyesi (n3), 6; For more information about “Consequences of Play Deprivation”, see Mrnjaus (n24), 227.

⁶³Lester and Russel (n29), 3.

⁶⁴CRC/C/GC/17 para 33.

⁶⁵As Mrnjaus stated “But a deeper research on play as the child’s right, opens up a field of unsuspected width, depth and importance, not only for the child’s personal development, but also for the development of the community.” Mrnjaus (n24), 218.

⁶⁶Rengarenk Umutlar Derneği (n22), 20.

⁶⁷Eliana Riggio, ‘Child friendly cities: good governance in the best interests of the child’, (2002) 14(2), Environment&Urbanization, 45.

⁶⁸Onur Erman, ‘Kent Yaşamında Çocuk’, (2014) (16) Çocuk ve Mimarlık, 10.

⁶⁹M. Selen Abbasoğlu Ermiyagil and Cemaliye Sunalp Gürçınar, ‘Kentsel Mekânın Gelişiminde Çocuk Oyun Alanlarının Rolü: K.K.T.C’de Yeni Kent Gönyeli Örneği’ (2015) (17) Kent ve Çocuk, 16-17.

⁷⁰For detailed information see Çakırer Özservet ‘Katılımcı Yerel Yönetimler’ (n52), 112 as cited in Kimberley L.Knowles- Yanez, ‘Children’s Participation Process’ (2005) 20(1) Journal of Planning Literature, 3-14.

⁷¹UNICEF, ‘Building a Child Friendly City’, <https://www.childfriendlycities.org/building-child-friendly-city> accessed 25 October 2024.

⁷²Arzu Başaran Uysal, ‘Çocuk Oyun Alanlarının Geliştirilmesinde Bir Yerel Katılım Deneyimi’, (2015) 10(3) MEGARON, 423.

⁷³Gaye Birol Özerk, ‘21. Yüzyıl Kentinde Çocuk Olmak’, (2014) (16) Çocuk ve Mimarlık, 14 as cited in Arza Churchman, ‘Is There a Place for Children in the City?’, (2003) 8(2) Journal Urban Design, 99-111.

⁷⁴CRC/C/GC/17 para 35.

⁷⁵Eser Güven Özbay, ‘Çocuk Hakları Perspektifinden Hızlı ve Çarpık Kentleşmenin Sonuçlarının Çocuk Üzerine Etkilerinin Değerlendirilmesi’ (2019) 4 (8) Çocuk ve Medeniyet, 182.

⁷⁶Tandoğan emphasizes the need for safe and secure play areas in her study. For more information see, Okşan Tandoğan, ‘Çocuk İçin Daha Yaşanılır Bir Kentsel Mekan: Dünyadan Gerçekleştirilen Uygulamalar’, (2014) 9(1) MEGARON, 30.

⁷⁷Başaran Uysal (n72), 423-439.

However, it is not enough to explain the connection between the urban areas and the healthy development of children only through playgrounds. Accordingly, within the framework of the fundamental principles of the UNCRC, the recognition of all rights of the child and the creation of urban policies that prioritize the child's best interest and the right to participation should be taken into consideration. This framework will be sufficient to reach the level of child-friendly cities.⁷⁸ In fact UNICEF defines it as “A child friendly city is one which implements the UN Convention on the Rights of the Child at the local level.”⁷⁹ UNICEF's goal of the child-friendly cities has pioneered good real-life implementations in this regard. It is clear that the topics/headings⁸⁰ determined by UNICEF have a positive impact here.⁸¹

The recent General Comment No 26 dated 2023 “on children's right and the environment with special focus on climate change” stated that Article 31 of the UNCRC within the context of environmental rights and stressed that the educational aspect of the play will contribute to children's environmental awareness.⁸² It is evident that the goals for the child-friendly cities are not distinctive from other policies.⁸³ In our opinion, the infrastructure for urban policy goals can be provided by accepting the right to play as a fundamental right in education and cultural activities. One key issue raised by the Committee in the General Comment No 17 is the relationship between education and the right to play. The Committee paid attention to the importance of the rights included in Article 31 for the education of children of all ages and the impact of play on learning, especially in early childhood⁸⁴; then examined the pressure for success in education⁸⁵ and overly structured adult-decided schedules⁸⁶. It is observed that the state parties misinterpret the complementary feature of the rights that dominated the UNCRC. From the viewpoint of state parties, the play is not a part of education but just an obstacle against education.⁸⁷

Although not often referred to, traditional and digital media are considered as an important obstacle in terms of the relationship between children and play. As far as we think, the impact of the media on children's rights is not often mentioned regarding the right to play. However, the Committee discussed the direct and indirect impacts of media and examined the direct and indirect impacts of this matter respectively in some headings as: lack of investment in cultural and artistic opportunities for children, growing role of

⁷⁸Alan (n15), 40.

⁷⁹UNICEF, 'Building a Child Friendly City' (n71).

⁸⁰As stated “...it is a city, town or community where children: Are protected from exploitation, violence and abuse/Have a good start in life and grow up healthy and cared for/ Have access to quality social services/ Experience quality, inclusive and participatory and skills development/ Express their opinions and influence decisions that affect them/ Participate in family, cultural, city/community and social life/ Live in a safe secure and clean environment with access to green spaces/ Meet friends and have places to play and enjoy themselves/ Have a fair chance in life regardless of their ethnic origin, religion, income, gender or ability.”, UNICEF, 'What is a child friendly city?', < <https://www.childfriendlycities.org/what-is-a-child-friendly-city>>, accessed 25 September 2024.

⁸¹For detailed information and examples of child friendly cities around the world, see Riggio (n67), 53.

⁸²CRC/C/GC/26 para 51.

⁸³Ercan Oktay and Şerife Pekküçükşen, 'Çocuk Odaklı Yerel Politikalar ve Parka Hapsedilen Çocukluk', (2017) 14(40) Mustafa Kemal Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, 315.

⁸⁴CRC/C/GC/17 para 27.

⁸⁵CRC/C/GC/17 para 41.

⁸⁶CRC/C/GC/17 para 42.

⁸⁷“Yet there is a widespread lack of understanding of the value of play, and it is often considered a trivial part of children's lives or dismissed as an unnecessary distraction from 'more important' activities such as preparedness for adult life, work and formal education. However growing evidence shows that playing especially up to the age of seven years can enhance educational achievements and life chances when children leave school” International Play Association, “Declaration on the Importance of Play”, (2014) 2and 3 <http://ipaworld.org/wp-content/uploads/2015/05/IPA_Declaration-FINAL.pdf> accessed 25 August 2024; “We recognise that in many countries there is disagreement about of the value of play, and so it is allocated a trivial part of children's lives or dismissed as an unnecessary distraction from what are considered 'more important' activities such as formal education and preparedness for adult life and work; on the contrary playing is essential for all of these outcomes.” Ibid 3.

electronic media, marketing and commercialization of play.⁸⁸ The evaluation regarding the correspondence between the media and children's rights should not be considered in the context of media liability. Also, the obligations of states in this regard should be brought to the fore. Here, although the first point that comes to mind is precautionary policies against the harmful effects of the media, it is clear that this issue also includes a positive obligation to evaluate children's free time, and that fulfilling these obligations on a rights-based view and within the framework of the UNCRC will have a positive impact on all three situations in question.

On the one hand, it is clear that ignorance of the play or approaches against the play are the main obstacles to accessing the right to play⁸⁹; on the other hand, supporting views are facilitated to access this right.⁹⁰ With the development of a social understanding regarding the acceptance of the educational and healing nature of play⁹¹, it will be possible for it to be the subject of legal regulation and implementation in a way that will be effective in all kinds of plans, programs and services aimed at or affecting children. It is clear that the impact of the child-friendly service approach discussed under this heading on urban policies, education, and culture provides insight into removing obstacles to access to rights. Otherwise, people will continue to talk about "lost childhood"⁹² where children are condemned to become adults without having a say in their own lives, and it will not be possible to overcome the obstacles to accessing rights with the "concept of play confined to the playground"⁹³.

According to Lester and Russel "Adults should be aware of the importance of play and take action to promote and protect the conditions that support it. The guiding principle is that any intervention to promote play acknowledges its characteristics and allows sufficient flexibility, unpredictability and security for children to play freely."⁹⁴ In this context, introducing the "International Day of Play" has a significant role in the process of reminding and promoting "play". For the observation of first-ever on 11 June 2024 as stated "The international day creates a unifying moment at global, national, and local levels to elevate the importance of play. It signals a call for policies, training, and funding to get play integrated into education and community settings worldwide."⁹⁵

B. Particular Groups, Exceptions and Obstacles

The Committee identified "children requiring particular attention to realize their rights under Article 31" as "girls, children living in poverty, children with disabilities, children in institutions, children from indigenous and minority communities, children in situations of conflict, humanitarian and natural disasters".⁹⁶ Under the same Comment, the Committee emphasized the obligation of the state parties to take measures against obstacles to accessing the right to play for child laborers⁹⁷ and children in poverty⁹⁸. The income group

⁸⁸CRC/C/GC/17 paras 45-46-47. For detailed information see, Kemal İnal, 'Modern Çocuk Oyunlarının Araçsallaştırılması' in Çocuk Hakları ve Siyaset (2 nd edn, Yeni İnsan Yayınevi 2018), 135-157.

⁸⁹Topaç and Bardak and Ünal (n19), 677.

⁹⁰Merve Dereli and Gonca Uludağ, 'Bir Hak Olarak "Oyun": Çocukların Oyun Hakkı' (2013) 100 Çoluk Çocuk Anne Baba Eğitimci Dergisi, 26.

⁹¹CRC/C/GC/17 para 2: "In general, where investment is made, it is in the provision of structured and organized activities, but equally important is the need to create time and space for children to engage in spontaneous play, recreation and creativity, and to promote societal attitudes that support and encourage such activity."

⁹²Oktay and Pekküçükşen (n83), 314 as cited in Neil Postman, *Çocukluğun Yokoluşu*, (İmge Kitabevi 1995).

⁹³Oktay and Pekküçükşen (n83), 315.

⁹⁴Lester and Russell (n29), 46.

⁹⁵United Nations, "International Day of Play 11 June", < <https://www.un.org/en/observances/international-day-of-play#:~:text=The%20first%20Dever%20International%20Day,thrive%20to%20their%20full%20potential>> accessed 25 December 2024.

⁹⁶CRC/C/GC/17 paras 48-53.

⁹⁷CRC/C/GC/17 para 29: "Article 32: The Committee notes that in many countries, children are engaged in arduous work which denies them their rights under article 31. Furthermore, millions of children are working as domestic workers or in non-hazardous occupations with their families

that the child is involved in differentiates the obstacles against accessing the right to play. For low and middle-income children, for whom parents cannot afford life insurance, the right to play becomes secondary. Additionally, parents in higher income groups set restrictive rules for socialization of children, which in turn acts as a barrier to the right to play.⁹⁹ In addition to specific conditions such as income level in daily life and ordinary times, it is also observed that similar restrictions exist in the context of events that have a social impact. For instance, obstacles against accessing basic needs during a disaster also put the right to play on the back burner. A similar specimen is the pandemic experienced worldwide. During that period, limitations on social life intensively interfered with accessing the right to play. The COVID-19 emerged as a general health risk, threatening the public order. This period interfered not only with the right to play but also with other rights stipulated in the UNCRC, in turn made all those rights inaccessible.¹⁰⁰

The Committee notes that children's safe social life is sometimes put at risk by people¹⁰¹, and defines the positive impact of the game not only for the therapy of sick children¹⁰², but also for victims of all types of violence.¹⁰³ Article 39 of the UNCRC is as follows: “*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.*” Research indicates that even the right to play is ignored in particular situations, such as disasters and wars; indeed, it is a substantial need peculiar to these situations.¹⁰⁴ The failure to recognize the importance of play stems from “*not only the physical and psychological conditions ... but also by the inadequate protections and opportunities offered by political and social institutions.*”, as has been stated for war.¹⁰⁵ However Article 36 of the UNCRC states that “*States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.*”

IV. Children's Access to the Right to Play in Türkiye

Türkiye became a party to the UNCRC with Law No 4058.¹⁰⁶ Article 1 of the UNCRC is compatible with the Turkish national law. According to this article, a child is “*... every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*” According to Article 11 of the

without adequate rest or education, throughout most of their childhood. States need to take all necessary measures to protect all child workers from conditions that violate their rights under article 31.”

⁹⁸CRC/C/GC/17 para 26: “*Article 27: Inadequate standard of living, insecure or overcrowded conditions, unsafe and unsanitary environments, inadequate food, enforced harmful or exploitative work can all serve to limit or deny children the opportunity to enjoy their rights under article 31. States parties are encouraged to take into account the implications for children's rights under article 31 when developing policies relating to social protection, employment, housing and access to public spaces for children, especially those living without opportunities for play and recreation in their own homes.*”

⁹⁹Riggio (n67) 46; Özbay (n75), 179-180.

¹⁰⁰For detailed information see, UNICEF, ‘Policy Brief: the Impact of COVID-19 on Children’ <https://www.unicef.org/turkiye/en/documents/impact-covid-19-children> accessed 30 August 2024. For a case study on the issue of right from the perspective of Türkiye, see Esma Eşgin Günder, ‘COVID-19 Pandemi Sürecinde Türkiye’de Çocuk Hakları’ (2021) 7(14) Journal of Social Research and Behavioral Sciences, 137-149.

¹⁰¹CRC/C/GC/17 para 36.

¹⁰²CRC/C/GC/17 para 25.

¹⁰³CRC/C/GC/17 paras 30 – 31.

¹⁰⁴Rengarenk Umutlar Derneği (n22), 11; For detailed information about “The importance of play for the trauma recovery of children affected by armed conflict” see Aleksanda Glos, ‘Children's right to play in times of war’ (2023) Bioethics, 2.

¹⁰⁵Glos (n104), 4

¹⁰⁶Official Gazette of 27 January 1995, Nr. 22184. < <https://www.resmigazete.gov.tr/arsiv/22184.pdf> > accessed 25 August 2024. Article 90/1 of the Turkish Constitution states that international agreements duly put into effect have the force of law. The agreement is a binding rule of domestic law for our country.

Turkish Civil Code “... *the age of majority is eighteen (full).*” and “*A person becomes sui juris by marriage.*”¹⁰⁷ Since childhood is a developmental period, the fragile nature of children, the fact that their views are not taken into account, and the restrictions on access to participation rights due to reasons such as not being able to vote, and the problems experienced in accessing institutions or judicial processes constitute the basis for the main reasons for the special importance given to children's rights within human rights.¹⁰⁸ It is highlighted that the responsibilities of the state parties are being expanded since the subject of the right is a child.¹⁰⁹ In addition, evaluations regarding Türkiye show that progress is not sufficient.¹¹⁰ It is once again seen that the Convention alone cannot create a transformation¹¹¹ and that the current social conditions should not be ignored.¹¹²

A. Right to Play in Turkish Law

To examine the fundamental principles of the UNCRC under Turkish Constitution we must state that the term “*everyone*” under the “*personal rights and duties*” section of the Constitution surely includes children.¹¹³ Children also have fundamental rights unless these are legally limited by an exception.¹¹⁴ First of all, as regards to the fundamental principle of the child's right to development Article 17 of the Turkish Constitution states that “*Everyone has the right to life and the right to protect and improve his/her corporeal and spiritual existence.*” In addition, the principle of equality in Article 10/1 of the Turkish Constitution, which stipulates “*Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.*” is parallel to the prohibition of discrimination that features the UNCRC. The superiority of the child's interest is also related to Article 41 of the Turkish Constitution and the principle of the social state.¹¹⁵ The principle of the best interest of the child concerns Article 41 and Article 2 of the Turkish Constitution.¹¹⁶

Considering the legislation in Türkiye, it is observed that with the ratification of the UNCRC, the obligations of the administration with regard to the recognition and provision of the rights of children to rest, spend their free time, play, have fun, and participate in cultural and artistic activities are not limited to the central administration, and local administrations are also assigned as important actors.¹¹⁷ In this regard, there exist legal provisions regarding both local governments and planning. Although it cannot be argued

¹⁰⁷Besides see in Turkish Civil Code Article 8: “*Every person is entitled to a vested right.*” and “*Accordingly, all the persons are equal in using rights and fulfilling obligations within the legal limits*”

¹⁰⁸Rengarenk Umutlar Derneği (n22), 18.

¹⁰⁹Algan (n8), 11.

¹¹⁰Kurt (n15), 116; For detailed information see Committee on the Rights of the Child, (2023) ‘Concluding observations on the combined fourth and fifth periodic reports of Türkiye’ < <https://digitallibrary.un.org/record/4013415?ln=en&v=pdf> > accessed 16 October 2024 (CRC/C/TUR/CO/5-6)

¹¹¹Cüneyt Ozansoy, ‘Öznesini Arayan Nesnelere: Çocuk ve Çocuk Hakları’ (1999) (1) Türkiye Barolar Birliği Dergisi, 40.

¹¹²Ibid 54.

¹¹³Hasan Tahsin Fendoğlu, *Çocuk Hukuku* (2 nd edn, Yetkin Yayınları 2021), 64.

¹¹⁴Zafer Gören, ‘Çocukların Temel Haklarının Anayasal Garantisi’, (2012) (22) İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi 10. Yıl’a Armağan, 66.

¹¹⁵Serozan (n11), 65; see Article 41 of the Turkish Constitution: “*Family is the foundation of the Turkish society and based on the equality between the spouses. The State shall take the necessary measures and establish the necessary organization to protect peace and welfare of the family, especially mother and children, and to ensure the instruction of family planning and its practice. (Paragraph added on September 12, 2010; Act No. 5982) Every child has the right to protection and care and the right to have and maintain a personal and direct relation with his/her mother and father unless it is contrary to his/her high interests. (Paragraph added on September 12, 2010; Act No. 5982) The State shall take measures for the protection of the children against all kinds of abuse and violence.*”

¹¹⁶Özlem Akbulut Gün, ‘Çocuk ve Oyun Hakkı’ (2016) İstanbul Barosu Çocuk Hakları Merkezi 23 Nisan Özel Broşürü, 104; Article 2 of the Turkish Constitution: “*The Republic of Türkiye is a democratic, secular and social state governed by rule of law, within the notions of public peace, national solidarity and justice, respecting human rights, loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the preamble.*”

¹¹⁷Yasemin Çakırer Özservet, ‘Çocuk Dostu Belediyecilik’, (2015) İller ve Belediyeler Dergisi, 38-43, 42.

that there are no provisions for children in the legal regulations regarding local governments today¹¹⁸, the obligatory and dependent relationship between access to play and the environment in which children live highlights the responsibility of local governments in this regard.

When the legislation regarding local administrations is examined in the context of Article 31 of the UNCRC, it is observed that parks and green areas are among the services listed for local needs in Article 14/1 of the Municipality Law; that metropolitan municipalities are tasked with “...conducting and developing all kinds of social and cultural services for young people and children and establishing social facilities for this purpose” in Article 7/7-v of the Metropolitan Municipality Law No. 5216; and that services related to the provision of land, construction, maintenance and repair of buildings and other needs of culture, art and primary and secondary education institutions within the scope of Article 6 of the Provincial Special Administration Law No. 5302 (Article 6/1-a); services related to the establishment of parks and gardens outside the municipal borders (Article 6/1-b); and that works related to the planning, design, construction, maintenance and repair of bicycle paths and lanes, bicycle and electric scooter parking and charging stations, pedestrian paths and noise barriers (Article 6/1-c) are within the scope of the duties of provincial special administrations.¹¹⁹ However, the absence of a regulation directly targeting children's playgrounds in the Zoning Law No. 3194, and the related legal regulations such as Spatial Plans Construction Regulation, Planned Areas Type Zoning Regulation, and the fact that not every green area includes a playground¹²⁰ are criticized in the context of the inadequacy of legal regulations regarding access to rights.

Article 76 of the Municipality Law comes to the fore in addressing access to the right to play not specifically in terms of playgrounds but in terms of the principle of participation, which is also one of the fundamental principles of the UNCRC. According to Article 76/2 of Municipality Law, the city council “... is formed with the participation of professional organizations that are public institutions, unions, notaries, universities, if any, relevant non-governmental organizations, political parties, public institutions and organizations, representatives of neighborhood headmen and other relevant parties” and provides the principle of participation. However, regarding city councils, the inability to make binding decisions¹²¹ and inadequacy to be involved in decision-making¹²² are criticized. Despite the article 6/1-ğ of the City Council Regulation states “One of the duties of city councils is to increase the effectiveness of children, youth, women and disabled people in social life and to ensure that they take an active role in local decision-making mechanisms,” such a provision has not yet been implemented.¹²³ Evaluations regarding the mentioned Regulation suggest that these councils provide the principle of participation symbolically, considering both the election of members to the council and the legal effect of decisions.¹²⁴ Thus, even if children's councils are considered positive processes regarding the implementation of the principle of participation, they are considered inadequate with regard to participation.¹²⁵

¹¹⁸“Issues such as children's right to play, increasing child-friendly spaces and promoting a culture of child rights are other issues that should not be ignored by municipalities”. Republic of Türkiye Ministry of Family and Social Services, ‘2023-2028 Türkiye Child Rights Strategy Document and Action Plan’, <https://www.aile.gov.tr/media/134387/c-ocuk-haklari-strateji-belgesi-ve-eylem-planı-2023-ingilizce.pdf> accessed 15 August 2024.

¹¹⁹Oktay and Pekküçükşen (n83), 311-313.

¹²⁰Rengarenk Umutlar Derneği (n22), 28; An opinion that considers the risks that may arise in terms of Turkish legislation and that it is mandatory for the public interest to include children's gardens in the zoning plan as active green areas, taking into account the principles governing zoning law, see Çelikaş Özdamar (n1), 189-191.

¹²¹Çakırer Özservet ‘Katılımcı Yerel Yönetimler’ (n52), 101; Başaran Uysal (n72), 426; Kurt (n15), 119. Article of the 76/3 the Municipal Law states that, opinions formed in the city council are put on the agenda at the city council's first meeting and evaluated.

¹²²Başaran Uysal (n72), 426.

¹²³Oktay and Pekküçükşen (n83), 313.

¹²⁴Çakırer Özservet ‘Katılımcı Yerel Yönetimler’ (n52), 102.

¹²⁵Yasemin Mamur Işıklı, ‘Çocuk Haklarının Geliştirilmesinde Çocuk Katılım Mekanizmalarının Etkinliği Üzerine Bir Örnek Olay İncelemesi: Ankara Büyükşehir Belediyesi Çocuk Meclisi Çalışmaları’, (2010) (17) İğdir Üniversitesi Sosyal Bilimler Dergisi, 478.

While the principle of participation requires that the child's opinion be sought on every issue concerning him/her within the scope of the Convention, it appears in the form of seeking opinions from time to time and on specific issues. It is clear that adults set bounds in this field and obtain children's views at certain times and on specific subjects.¹²⁶ However, implementing this principle also contributes to the accessibility of the right to play.¹²⁷ At this point, the Turkish doctrine draws attention to the importance of municipalities' awareness of child-friendly policies.¹²⁸ Participation of children in city councils provides child-friendly cities.¹²⁹ Besides, local government children's councils are organized according to the child-friendly city concept¹³⁰, and municipalities have a structure for children within their organizations¹³¹, which are the leading prospering practices of the administrative activities for implementing laws. As determined in the Master Plan *"The 'playable city' is based on three basic principles: Increasing citizens' participation in decisions about the development of the city / offering new experiences to explore and experience the city / Creating an interesting and interactive communication channel between 'City' and 'Citizen'."*¹³² With the goal *"to enhance the green spaces per person, to add playability to a city model dedicated to sustainability and climate change mitigation"*¹³³ Master Plan indicates a holistic approach to the General Comments. The Committee's most recent General Comment is about climate change, and it brings up the right to live in a clean, healthy, and sustainable environment regarding leisure and play policies.¹³⁴

As stipulated in the 12th Development Plan, regarding the best interests of the child, Türkiye intends to provide equal opportunities to children for health, nutrition, and shelter. The Plan aims to encourage children to participate in scientific, cultural, and sportive activities for their development and to provide access to such activities.¹³⁵ In addition, targets regarding access to participation rights are also included in the mentioned Plan. In fact, the Türkiye Children's Rights Strategy Document and Action Plan (2023-2028) addresses the need to obtain the child's opinion and develop strategies regarding child participation, and in this context, the importance of including studies in which children will be included in the decision-

¹²⁶Çakırer Özservet 'Katılımcı Yerel Yönetimler' (n52), 91.

¹²⁷İstanbul Büyükşehir Belediyesi (n3), 18.

¹²⁸Çakırer Özservet 'Çocuk Dostu Belediyecilik' (n117), 42; Kurt (n15), 119.

¹²⁹Alan (n15), 41.

¹³⁰Erbay 'Çocukların Katılım Hakkı' (n53), 49.

¹³¹Levent Memiş, 'Yerel Yönetimlerin Çocuğa Yönelik Örgütlenmesi ve Politikaları: Seçilmiş Ülkeler Üzerinden Bir Değerlendirme' (2020) 12(22) Karadeniz Sosyal Bilimler Dergisi, 48.

¹³²İstanbul Büyükşehir Belediyesi (n3), 45.

¹³³İstanbul Büyükşehir Belediyesi (n3),12.

¹³⁴CRC/C/GC/26 para 67: "States should explore options to reduce the onerous burden of proof on child plaintiffs to establish causation in the face of numerous variables and information deficits, rather than on the State or private actors whose polluting activities and contribution to greenhouse gas emissions cause them harm to enhance accountability and promote children's access to effective remedy." CRC/C/GC/26 para 46: "Conversely, unsafe and hazardous environments undermine the realization of the rights under article 31(1) of the Convention, and are risk factors for children's health, development and safety. Children, particularly those living in poverty and in urban settings, need inclusive spaces to play that are close to their homes and free from environmental hazards. The impacts of climate change exacerbate these challenges, while climate-related." CRC/C/GC/26 para 47: "States shall take effective legislative, administrative and other measures to ensure that all children, without discrimination, are able to play and engage in recreational activities in safe, clean and healthy environments, including natural spaces, parks and playgrounds. Public planning in both rural and urban settings should prioritize the creation of environments which promote the well-being of children and take their views into account. Consideration should be given to provision of access to landscaped green areas, large open spaces and nature for play and recreation, with safe, affordable and accessible transport, creation of a safe local environment for free play, including freedom from pollution, hazardous chemicals and waste, and road traffic measures to reduce levels of pollution near households, schools and playgrounds, including design of zones in which players, pedestrians and bikers have priority." CRC/C/GC/26 para 48: "States should introduce legislation, regulations and guidelines, together with the necessary budgetary allocation and effective monitoring and enforcement mechanisms, to ensure that third parties comply with article 31 of the Convention, including by establishing safety standards for all toys, play and recreational facilities, particularly concerning toxic substances, in urban and rural development projects. In situations of climate-related disasters, active measures should be taken to restore and protect children's rights under article 31 of the Convention, including through the creation or restoration of safe spaces, and by encouraging play and creative expression to promote resilience and psychological healing."

¹³⁵Presidency of the Republic of Türkiye, 'The Twelfth Development Plan (2024-2028)' (2023), 174 < https://www.sbb.gov.tr/wp-content/uploads/2024/06/Twelfth-Development-Plan_2024-2028.pdf> accessed 15 August 2024 .

making mechanisms of public institutions and organizations.¹³⁶ In addition, it is aimed to “*the best interest of the child, prioritize the child in child protection policies, decision-making mechanisms related to the child, develop child-friendly legislation, develop child-friendly practices and prioritize child welfare and provide the child with the opportunity to participate in decision-making mechanisms.*”¹³⁷

B. Obstacles to Accessing the Right to Play in Türkiye

Most of the researches conducted on playgrounds in outdoor areas has shown that; the amount of area per child in these areas is low¹³⁸, there is a lack of security in these playgrounds¹³⁹, this situation is a threat not only to the right of the play but also to life and health¹⁴⁰, they offer a limited play area with a uniform usage area¹⁴¹. In Türkiye, TS EN 1176 series Standards have been used for the playgrounds as security standards. What is striking is that compliance with these standards is voluntary.¹⁴² As a result of the studies carried out locally to determine the compliance of playgrounds with the standards, it is aimed to eliminate the non-conformities.¹⁴³ Criticisms on the current playgrounds¹⁴⁴ under the responsibility of municipalities are that the single-type park designs¹⁴⁵ that prioritize safety do not include developmental and interesting opportunities for children and do not appeal to different age groups.¹⁴⁶ For this reason, it is not possible to accept the presence of playgrounds in every neighborhood as a protection of children's right to play in urban design¹⁴⁷, and having a large number of these areas will not be enough for a child-friendly city.¹⁴⁸ While evaluating the effect of closed, high and dense construction on the transformation of streets and neighborhoods, as well as the effect of playgrounds in shopping malls, which have become the entertainment centers of city life, on the development of children¹⁴⁹, it is emphasized that these areas are not actually designed for children, but for families to be able to shop.¹⁵⁰ In this context, children are considered among the disadvantaged groups living in cities, considering the city's boundaries and the spaces they cannot use.¹⁵¹ Rules for living in the city are set on behalf of children by the adults responsible for them, and the child's life in the town may be restricted due to this guidance.¹⁵²

¹³⁶See the Republic of Türkiye Ministry of Family and Social Services (n118), 63.

¹³⁷Emin Eraslan, 'Çocuk Hizmetleri Genel Müdürlüğü Türkiye'nin Çocuk Koruma Politikaları', (2022) TİHEK Birleşmiş Milletler Çocuk Hakları Sözleşmesi'nin Kabulünün 32. Yılında Çocuk Hakları Sempozyumu, 74.

¹³⁸Bkz. Başaran Uysal (n72), 428; İstanbul Büyükşehir Belediyesi (n3), 55 and 61.

¹³⁹Çocuk İzi İzmir Çocuk Araştırmaları Ağı, 'Oyun Hakkına Yerelden Bakmak: Konak İlçesi Örneği', 9. < <https://www.stgm.org.tr/e-kutuphane/oyun-hakkina-yereden-bakmak-konak-ilcesi-orneği>> accessed 9 July 2024.

¹⁴⁰Çocuk İzi İzmir Çocuk Çalışmaları Ağı, 'Çocuklar Bayraklı İlçesindeki Oyun Parklarını İzliyor', 7 < <https://etkiniz.eu/blog/cocuk-izi-bayrakli/>> accessed 9 July 2024.

¹⁴¹Derya İyikul, 'Kentte Çocukların Oyunu İçin Veriyi Dayalı Strateji Geliştirme', (2021/2) TESEV Değerlendirme Notları, 4.

¹⁴²Çocuk İzi İzmir Çocuk Çalışmaları Ağı (n139), 7; For more information, see Hazal Mine Sarıaslan Senyen and Elmas Erdoğan, 'Kamusal Çocuk Oyun Alanlarında Güvenliğin Avrupa Standartları Üzerinden Değerlendirilmesi', (2019) 21 (3) Bartın Orman Fakültesi Dergisi, 682.

¹⁴³Many non-conformities were detected in the equipment of the playgrounds examined. For detailed information, see Sarıaslan Senyen and Erdoğan (n141), 665.

¹⁴⁴Studies on the inadequacy of playgrounds have long been encountered: See Sevgi Yılmaz and Zöhre Bulut, 'Kentsel Mekanlarda Çocuk Oyun Alanlarının Yeri ve Önemi: Erzurum Örneği' (2003) 158 Milli Eğitim Dergisi < https://dhgm.meb.gov.tr/yayimlar/dergiler/Milli_Egitim_Dergisi/158/yilmaz.htm> accessed 24 September 2024.

¹⁴⁵For detailed information on the types of children's playgrounds, see Tandoğan (n76), 30.

¹⁴⁶İyikul (n140), 2-4.

¹⁴⁷Oktay and Pekküçükşen (n83), 309.

¹⁴⁸Biröl Özerk (n73), 15; For data on play and recreation areas in İstanbul, see İstanbul Büyükşehir Belediyesi (n22), 135 etc.

¹⁴⁹Erman (n68), 12.

¹⁵⁰Oktay and Pekküçükşen (n83), 314.

¹⁵¹Yasemin Çakırer Özservet, 'Aile Dostu Kent için Kavramsal Analiz', (2015) Aile Dostu Kent Etüt Araştırma Raporu, 53-160; Çakırer Özservet 'Kent Havası' (n16), 88.

¹⁵²Çakırer Özservet 'Kent Havası' (n16), 89.

Insufficient budgets and lack of data are the prominent issues at the local governmental level.¹⁵³ At this point, the “*child-friendly budgeting approach*” must be touched upon as an essential matter. This approach, as defined by UNICEF, aims to prioritize the needs of children in public expenses.¹⁵⁴ Besides, the inadequacy of the research regarding child-friendly cities has a mutual character: lack of data. It has not been possible to determine budgets for children's needs within public expenditures.¹⁵⁵ Thus, in “Concluding observations on the combined fourth and fifth periodic reports of Türkiye” recommendations are as follows: “(a) *Strengthen its child rights-based approach in the development of the State and municipal budgets, by implementing a tracking system for the allocation and the use of resources for children throughout the budget; (b) Use this tracking system for impact assessments on how investments in any sector may serve the best interests of the child, ensuring that the different impacts of such investment on particular groups of children, including those in situations of vulnerability, are measured; (c) Ensure transparent and participatory budgeting through public dialogue, especially with children and for proper accountability of local authorities.*”¹⁵⁶

Studies on playgrounds do not only reveal problems. Thanks to these studies, good practice examples among the services offered by municipalities also attract attention. UNICEF Türkiye Child Friendly Cities Project comes first among these.¹⁵⁷ The contribution of the mentioned project in overcoming all these and establishing the child-friendly city concept is undeniable. In addition, carrying out play-specific studies in some cities is important to shed light on overcoming the obstacles mentioned.¹⁵⁸ Among these, Nilüfer Municipality “The Play Knows No Barriers Park” Project appears to be the most successful practice of the right to play.¹⁵⁹ Besides, non-governmental organizations have a big share to promote and generalize the mentioned right with concrete project.¹⁶⁰ Providing children with the right to participation in some of these projects appears to be a positive practice regarding fundamental principles in Türkiye.

Another positive paradigm within the context of local administrations is the decision reached as a result of an application made to the Turkish Ombudsman Institution.¹⁶¹ In that case, following the accident that occurred in the playground, the municipal administration closed the playground and did not replace it with a new one. Thereupon, a child applied to the Ombudsman. In its reasoning the Ombudsman emphasized the right to play and the importance of playgrounds, and the characteristics of playgrounds were also determined. In addition, it is important to emphasize security/safety and functionality for the access of different age groups and children with disabilities in the decision in question. Besides, Ombudsman emphasized the Article 12 of UNCRC in its decision and the necessity to apply it to the children's views. Furthermore, after the decision was sent to the relevant administration, the municipality promised to state a playground.¹⁶² The important point in terms of this decision is that the evaluation of children's rights in the administrative control mechanism is handled in accordance with the international obligations.

¹⁵³Çakırer Özservet ‘Katılımcı Yerel Yönetimler’ (n52), 119.

¹⁵⁴Gonca Güngör Göksu, ‘Çocuk Dostu Şehirlerin Kurulmasında Çocuklara Duyarlı Bütçelemenin Önemi ve Rolü’ (2018) (110), 161.

¹⁵⁵Alan (n15), 48; Güngör Göksu (n153), 160.

¹⁵⁶CRC/C/TUR/CO/4-5 para 11.

¹⁵⁷For detailed information see UNICEF Türkiye, <<https://www.unicef.org/turkiye/en/child-friendly-cities>>, accessed 07 October 2024.

¹⁵⁸For detailed information see Yerel İz, *Good Practices: Localisation of Sustainable Development Goals* <<https://www.local2030.org/library/587/Good-Practices-Localization-of-Sustainable-Development-Goal.pdf>> accessed 15 October 2024.

¹⁵⁹For detailed information see Nilüfer Belediyesi, ‘Oyun Engel Tanımaz Parkı’, https://www.nilufer.bel.tr/kategoriler/tesisler/spor-tesisleri/oyun-engel-tanimaz-parki?niluferbelediyesi-365-oyun_engel_tanimaz_parki < accessed 15 October 2024.

¹⁶⁰For a sample see Oyun Hareketi Derneği, <<https://www.oyunhareketidernegi.com/>> accessed 15 October 2024; Oyuna İhtiyaç Var, <<https://www.oyunaihtiyacvar.org/oyun-hakki>> accessed 20 December 2024.

¹⁶¹The decisions of Ombudsmans’ was accessed through the children's page of the Ombudsman Institution. For detailed information see Kamu Denetçiliği Kurumu, KDK (Çocuk) Kararlarımız, <<https://www.kdkcocuk.gov.tr/kararlarimiz>> accessed 23 October 2024.

¹⁶²Kamu Denetçiliği Kurumu, App. Nr. 2021/9968, 07.07.2021< <https://www.kdkcocuk.gov.tr/karar-cocugun-dinlenme-bos-zaman-degerlendirme-oyunama-yasina-uygun-etkinliklerde-bulunma-hakki>> accessed 23 October 2024.

The lack of playgrounds and the difficulty of accessing them increases the difficulties of living together in crowded cities, and brings the right of children to play in common areas in residential areas into question. In a current legal study, this issue is discussed through disputes regarding the Flat Owners Law. It is suggested that restricting children from playing in common areas due to noise by the decisions of the Flat Owners Board constitutes a violation of Article 41 of the Constitution, Article 31 of UNCRC, and the relevant mandatory provisions of the Turkish Civil Code.¹⁶³ As stated in the decisions of the Court of Cassation, objective criteria must be used to determine the obligation to endure in neighborly relations, and the child's best interests should be prioritized.¹⁶⁴

At this point, it is observed that there are not only local-level targets for urbanization problems but also some national-level targets¹⁶⁵, such as the development target for the use of school gardens, yet they are insufficient to solve the problems that only address a small portion in the whole. Such a deficiency is also expressed in an application by a child before the Ombudsman, which shows the importance of the principle of participation. A boarding school student applied to the Ombudsman as there was no playground in the school garden. In its reasoning the Ombudsman emphasized the abovementioned issues underlining the right to play, the importance and characteristics and functionality of playgrounds, the Article 12 of UNCRC in its decision and the necessity to apply it to the children's views. Pursuing the guarantee of children's right to play with the right to education is an important development.¹⁶⁶ Thus, not only are local administrations' liability essential to promote the right to play, but also consideration of the public services carried out by the central administration should not be neglected. As the Committee states "*Many children in many parts of the world are being denied their rights under article 31 as a consequence of an emphasis on formal academic success.*"¹⁶⁷ It is evident that considering education as a public service, the criticisms about the liability of the Ministry are concentrated on education policies.¹⁶⁸ The Ministry of Family and Social Services, as a part of the central administration, submitted its works under the heading of "*child-friendly areas*" in the April 23 Special Edition and shared some specific information.¹⁶⁹ However, the Committee highlighted the impossibility of accessing the fundamental public services in Türkiye after a recent disaster. As stated that "*The Committee recognizes the obstacles to the implementation of the Convention in the south-east of the country given the dire humanitarian situation as a result of the earthquake and its aftershocks in February 2023, resulting in 2.5 million children in the State party experiencing extreme deprivation, including homelessness and no access to essential services.*"¹⁷⁰ At this point, the Committee shares Türkiye's commitment as a State Party "...*providing immediate and durable solutions ... to prioritize the enjoyment by children of all rights in the Convention.*"¹⁷¹

¹⁶³For detailed information, see Şahin Caner (n1), 401-422.

¹⁶⁴Ibid 419.

¹⁶⁵Presidency of the Republic of Türkiye (n134), 174.

¹⁶⁶Kamu Denetçiliği Kurumu, App. Nr. 2022/8315, 15/05/2022 <https://www.kdkcocuk.gov.tr/karar-insan-kisiliginin-eksiksiz-gelisimi-icin-cocuklarin-oyun-oynama-ve-yasina-uygun-eglenme-etkinliklerinde-bulunma-haklari> accessed 23 october 2024.

¹⁶⁷CRC/C/GC/17 para 41.

¹⁶⁸Akbulut Gün, (n116), 107.

¹⁶⁹T.C. Aile ve Sosyal Hizmetler Bakanlığı, 'Çocuk Hakları ve Türkiye Uygulaması 23 Nisan Ulusal Egemenlik ve Çocuk Bayramı Özel Yayını' (2021) <<https://www.aile.gov.tr/media/75943/cocuk-politikalari-serisi-23-nisan-ozel-yayini.pdf>> accessed 07.10.2024.

¹⁷⁰CRC/C/TUR/CO/4-5 para 4.

¹⁷¹Ibid.

V. Conclusion

It is evident that access to the right to play will be possible not only by laying down rules and procedures but also by implementing them. For these goals, which are reflected in all international and national legal texts and are in line with the basic principles in the UNCRC, to be realized, the duty given to the states with the right to respect, provide, and promote must be appropriated by all adults. However, the state parties are observed to misinterpret the complementary features of the rights that dominated the UNCRC.

The right to play within the scope of the UNCRC is strongly related to other children's rights provided in the mentioned Convention. Violating the right to play breaches Article 31 of the UNCRC and other relevant articles. The main reason for any physical or legal obstacle that causes a violation is adults' approaches towards the mentioned rights. When all legal and actual obstacles to the implementation of the UNCRC, written by adults without the participation of children, are examined, it is seen that they are based on plans, programs, rules, or policies that do not include children's opinions. The greatest obstacle regarding the right to play is the adults and their attitudes, whose rights were violated when they were children. Here, it is essential to remember the significance of children's participation in the process.

In line with the positive developments in Türkiye, the right to play should be assessed from a human rights perspective. We hope that the target from a city with playgrounds to a playable city in the child-friendly cities concept in the İstanbul Play Master Plan will be targetable at the whole country level and against all the obstacles we have mentioned. Besides, addressing the right to play holistically, not only locally but in all state policies will lead us to a Türkiye where children play.



Peer Review	Externally peer-reviewed.
Conflict of Interest	The author has no conflict of interest to declare.
Grant Support	The author declared that this study has received no financial support.

Author Details	Burçak Bal Yalçın
	¹ Researcher, İstanbul, Türkiye
	 0000-0002-2153-1543  burcak.bal@hotmail.com

Bibliography

- Abbasoğlu Ermiyagil M.S. and Sunalp Gürçınar C., '*Kentsel Mekânın Gelişiminde Çocuk Oyun Alanlarının Rolü: K.K.T.C'de Yeni Kent Gönyeli Örneği*' (2015) (17) Kent ve Çocuk, 12-46.
- Akbulut Gün Ö., '*Çocuk ve Oyun Hakkı*' (2016) İstanbul Barosu Çocuk Hakları Merkezi 23 Nisan Özel Broşürü, 102-109.
- Akıllıoğlu T., '*Çocuk Haklarına Dair Sözleşme* (AÜSBF İnsan Hakları Merkezi Yayınları 1995).
- Akyüz E., '*Çocuk Hakları Sözleşmesinin Temel İlkeleri Işığında Çocuğun Eğitim Hakkı*' (2001) (151) Milli Eğitim Dergisi <https://dhgm.meb.gov.tr/yayimler/dergiler/Milli_Egitim_Dergisi/151/akyuz.htm> accessed 12 August 2024.
- Akyüz E., '*Çocuk Hukuku, Çocukların Hakları ve Korunması*, (7th edn, Pegem Akademi 2020).
- Alan B., '*Çocuk Dostu Kent Uygulamaları: Londra ve Bursa Kentlerinin Karşılaştırılması*'11. Türkiye Lisansüstü Çalışmalar Kongresi Mardin, Bildiriler Kitabı, Editörler: Talha Erdoğan, Şeyda Karabatak (Mimarlık ve Şehircilik, Siyaset Bilimi, Sosyal Politikalar ve Tarih 2023), 29-50.
- Algan M., '*Anayasa Hukukunda Çocuk Hakları* (On İki Levha Yayıncılık 2021).
- Başaran Uysal A., '*Çocuk Oyun Alanlarının Geliştirilmesinde Bir Yerel Katılım Deneyimi*', (2015) 10(3) MEGARON, 423-439.
- Biröl Özerk G., '*21. Yüzyıl Kentinde Çocuk Olmak*', (2014) (16) Çocuk ve Mimarlık, 14-17.



- Churchman A., 'Is There a Place for Children in the City?', (2003) 8(2) Journal Urban Design, 99-111.
- Committee on the Rights of the Child, 'General Comment No.7 (2005) Implementing child rights in early childhood'<https://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/GeneralComment7Rev1.pdf> accessed 25 July 2024.
- Committee on the Rights of the Child, 'General Comment No.12 (2009) The right of the child to be heard' <<https://www2.ohchr.org/english/bodies/crc/docs/advanceversions/crc-c-gc-12.pdf>> accessed 25 July 2024.
- Committee on the Rights of the Child, 'General comment No.17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts (art.31)2' <<https://digitallibrary.un.org/record/778539?ln=en&v=pdf>> accessed 25 July 2024.
- Committee on the Rights of the Child, 'General Comment No.26' (2023) on children's rights and the environment, with a special focus on climate change' <<https://digitallibrary.un.org/record/4019975?v=pdf>> accessed 25 July 2024.
- Committee on the Rights of the Child, (2023) 'Concluding observations on the combined fourth and fifth periodic reports of Türkiye' <<https://digitallibrary.un.org/record/4013415?ln=en&v=pdf>> accessed 16 October 2024 (CRC/C/TUR/CO/5-6).
- Çakırer Özservet Y., 'Aile Dostu Kent İçin Kavramsal Analiz' (2015) Aile Dostu Kent Etüt Araştırma Raporu, 53-160.
- Çakırer Özservet Y., 'Çocuk Dostu Belediyecilik' (2015) İller ve Belediyeler Dergisi, 38-43.
- Çakırer Özservet Y., 'Çocuklar İçin Katılımcı Yerel Yönetimler', Çocuk Katılımı, Editör: Doç. Dr. Ercümen Erbay (Nobel 2016), 91-130.
- Çakırer Özservet Y., 'Kent havası çocuğu özgür kılar mı?' Çocuk Üzerine Araştırmalar, Editörler: Uludağ G. and Altunbay M. (Astana 2018), 87-109.
- Çelikaş Özdamar D., 'Almanya'da, Özellikle Berlin Eyaleti'nde Çocuk Bahçeleri (Oyun Alanları) ile İlgili Hukukî Düzenleme ve Türk Hukuku'nda Durum' (2000) Prof. Dr. Seyfullah EDİS'e Armağan, 187-21.
- Çocuk İzi İzmir Çocuk Araştırmaları Ağı, 'Oyun Hakkına Yerelden Bakmak: Konak İlçesi Örneği' <https://www.sivilsayfalar.org/raporlar/izmir-cocuk-calismalari-agi-oyun-hakkina-yerelden-bakmak-konak-ilcesi-ornegi/> accessed 9 July 2024.
- Çocuk İzi İzmir Çocuk Çalışmaları Ağı, 'Çocuklar Bayraklı İlçesindeki Oyun Parklarını İzliyor' < <https://etkiniz.eu/blog/cocuk-izi-bayrakli/> > accessed 9 July 2024
- Davey C. and Lundy L., 'Towards Greater Recognition of the Right to Play: An Analysis of Article 31 of the UNCRC' (2011) 25 Children&Society, 3-14.
- Değirmencioğlu S., 'Tersten Katılım: Katılım Hakkı Üzerine Bir Değerlendirme' Birleşmiş Milletler Çocuk Haklarına Dair Sözleşme'nin 20. Yılında Türkiye'de Çocuk Hakları (Maya Akademi ve Sosyal Hizmet Uzmanları Derneği Genel Merkezi Yayını 2010).
- Dereli M. and Uludağ G., 'Bir Hak Olarak 'Oyun': Çocukların Oyun Hakkı' (2013) 100 Çoluk Çocuk Anne Baba Eğitimci Dergisi, 26-27.
- Eraslan E., 'Çocuk Hizmetleri Genel Müdürlüğü Türkiye'nin Çocuk Koruma Politikaları', (2022) TİHEK Birleşmiş Milletler Çocuk Hakları Sözleşmesi'nin Kabulününün 32. Yılında Çocuk Hakları Sempozyumu, 74-83.
- Erbay E., 'Çocukların Katılım Hakkı Üzerine Bir Türkiye Değerlendirmesi' (2013) 2(1) İnsan ve Toplum Bilimleri Araştırmaları Dergisi, 38-54.
- Erman O., 'Kent Yaşamında Çocuk', (2014) (16) Çocuk ve Mimarlık, 10-14.
- Esgin Günder E., 'COVID-19 Pandemi Sürecinde Türkiye'de Çocuk Hakları', (2021) 7(14) Journal of Social Research and Behavioral Sciences, 137-149.
- Fendoğlu H.T., *Çocuk Hukuku* (2 nd edn, Yetkin Yayınları 2021).
- Glos A., 'Children's right to play in times of war' (2023) Bioethics, 1-15.
- Gören Z., 'Çocukların Temel Haklarının Anayasal Garantisi', (2012) (22) İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi 10. Yıl'a Armağan, s.45-105.
- Güngör Göksu G., 'Çocuk Dostu Şehirlerin Kurulmasında Çocuklara Duyarlı Bütçelemenin Önemi ve Rolü' (2018) (110), s.157-171.
- Gürbüz D.Ö., 'Geleneksel Çocuk Oyunları ve Eğitimsel İşlevleri: Emirdağ Örneği' (2016) 11(14) Turkish Studies International Periodical for the Languages, Literature and History of Turkish or Turkic, 529-564.
- Hart R.A., *Children's Participation: From Tokenism to Citizenship* (UNICEF Innocenti Essays 1992).
- Hodgkin R. and Newell P., *Implementation Handbook For the Convention Rights of the Child*, (fully revised 3rd edn, United Nations Publications 2007).
- International Play Association, 'Promoting the Child's Right to Play' IPA Global Consultations On Children's Right to Play Report (August 2010) https://www.harryshier.net/docs/IPA_Global_Report_summary.pdf accessed 25 August 2024.
- International Play Association, 'Declaration on the Importance of Play', (2014) 2and 3 <http://ipaworld.org/wp-content/uploads/2015/05/IPA_Declaration-FINAL.pdf> accessed 25 August 2024;
- İnal K., 'Modern Çocuk Oyunlarının Araçsallaştırılması' in Çocuk Hakları ve Siyaset (2 nd edn, Yeni İnsan Yayınevi 2018), 135-157.

- İstanbul Büyükşehir Belediyesi, *İstanbul Oyun Master Planı*, (2019) Editör: Prof. Dr. Yasin Çağatay Seçkin (ed) <<https://yesil.istanbul/storage/public/2022/08/02/62e903f255b55-oyun-master-plani.pdf>> accessed 1 July 2024
- İyikul D., 'Kentte Çocukların Oyunu İçin Veriye Dayalı Strateji Geliştirme' (2021/2) TESEV Değerlendirme Notları, 1-14.
- Kamu Denetçiliği Kurumu, KDK (Çocuk) Kararlarımız, <<https://www.kdkcocuk.gov.tr/kararlarimiz>> accessed 23 October 2024
- Koç, E. 'Atatürk, Cumhuriyet ve Çocuk Ruh'u' (2010) (45) Atatürk Üniversitesi Türk İnkilâp Tarihi Enstitüsü Atatürk Yolu Dergisi, 71-82.
- Kurt S., 'Çocuk Haklarına İlişkin Temel Uluslararası Belgeler ve Türkiye Uygulaması' (2016) (36) Sosyal Politika Çalışmaları Dergisi, 99-127.
- Lester S. and Russell W., *Children's right to play: An examination of the importance of play in the lives of children worldwide*, (2010) (57) The Hague, The Netherlands: Bernard van Leer Foundation Working Paper.
- Lott N., 'The Right to Play' (2020) The University of Nottingham PHD Thesis.
- Lott N., 'Establishing the Right to Play as an Economic, Social and Cultural Right' (2022) 30 The International Journal of Children's Rights, 755-784.
- Lott N., 'A Framework for Implementing the Right of the Child to Play: Space, Time, Acceptance, Rights-Onformed' (2024) (17/2024) UCL Research Paper Series .
- Mamur Işıklı Y., 'Sosyal Politika Açısından Türkiye'de Çocuk Hakları Sorunu: Alana İlişkin Bir Araştırma' (İnönü Üniversitesi Yayınlanmamış Doktora Tezi 2013).
- Mamur Işıklı Y., 'Çocuk Haklarının Geliştirilmesinde Çocuk Katılım Mekanizmalarının Etkinliği Üzerine Bir Örnek Olay İncelemesi: Ankara Büyükşehir Belediyesi Çocuk Meclisi Çalışmaları', (2010) (17) Iğdır Üniversitesi Sosyal Bilimler Dergisi, 457-481.
- Meire J., 'Qualitative research on children's play: a review of recent literature' Several Perspective on Children's Play: Scientific Reflections for Practitioners, Edits: Jambour, T. and Van Gils, J. (Antwerp: Garant 2007).
- Memiş L., 'Yerel Yönetimlerin Çocuğa Yönelik Örgütlenmesi ve Politikaları: Seçilmiş Ülkeler Üzerinden Bir Değerlendirme' (2020) 12(22) Karadeniz Sosyal Bilimler Dergisi, 39- 56.
- Mrnjaus K., 'The Child's Right to Play?' (2014) (16) Croatian Journal Education, 217-233.
- Nilüfer Belediyesi, 'Oyun Engel Tanımaz Parkı', <https://www.nilufer.bel.tr/kategoriler/tesisler/spor-tesisleri/oyun-engel-tanimaz-parki?niluferbelediyesi-365-oyun_engel_tanimaz_parki> accessed 15 october 2024.
- Oktay E. and Pekküçükşen Ş., 'Çocuk Odaklı Yerel Politikalar ve Parka Hapsedilen Çocukluk' (2017) 14(40) Mustafa Kemal Üniversitesi Sosyal Bilimler Enstitüsü Dergisi, 309-318.
- Oyun Hareketi Derneği, <<https://www.oyunhareketidernegi.com/>> accessed 15 october 2024.
- Oyuna İhtiyaç Var, <<https://www.oyunaihtiyacvar.org/oyun-hakki>> accessed 20 December 2024.
- Ozansoy C., 'Öznesini Arayan Nesnelere: Çocuk ve Çocuk Hakları' (1999) (1) Türkiye Barolar Birliği Dergisi, 39-62.
- Özbay E.G., 'Çocuk Hakları Perspektifinden Hızlı ve Çarpık Kentleşmenin Sonuçlarının Çocuk Üzerine Etkilerinin Değerlendirilmesi' (2019) 4(8) Çocuk ve Medeniyet, 173-194.
- Özbek Dalyan D. and Ataman Fıganmeşe İ., 'Çocuk Haklarına Dair Sözleşme' (Kitap İncelemesi) (1996) (1-2) Milletlerarası Hukuk ve Milletlerarası Özel Hukuk Bülteni, 215-220.
- Özdemir H. and Ruhi A.C., *Çocuk Hukuku* (7 the edn, On İki Levha Yayıncılık 2024).
- Postman N., *Çocukluğun Yokluğu* (İmge Kitabevi 1995).
- Presidency of the Republic of Türkiye, *The Twelfth Development Plan (2024-2028)* (2023), <https://www.sbb.gov.tr/wp-content/uploads/2024/06/Twelfth-Development-Plan_2024-2028.pdf> accessed 15 August 2024
- Republic of Türkiye Ministry of Family and Social Services, *Türkiye Child Rights Strategy Document and Action Plan (2023-2028)* <<https://www.aile.gov.tr/media/134387/c-ocuk-haklari-strateji-belgesi-ve-eylem-plani-2023-ingilizce.pdf>> accessed 15 August 2024,
- Rico A.P. and Bantulà J., 'Children's Right to Play and Its Implementation: A Comparative, Internationa Perspective' (2021) 10(2) Journal of New Approaches in Educationa Research, 279-294.
- Riggio E., 'Child friendly cities: good governance in the best interests of the child', (2002) 14(2) Environment&Urbanization, 45-58.
- Sarıaslan Senyen H.M. and Erdoğan E., 'Kamusal Çocuk Oyun alanlarında Güvenliğin Avrupa Standartları Üzerinden Değerlendirilmesi', (2019) 21 (3) Bartın Orman Fakültesi Dergisi, 665-684.
- Serozan R., *Çocuk Hukuku* (Vedat Kitapçılık 2005).
- Rengarenk Umutlar Derneği, *Suriçi'nde Çocuk Olmak Suriçi'nde Çocukların Oyun Hakkını İzleme Raporu* (2021) <https://www.stgm.org.tr/sites/default/files/2021-06/suricide-cocuk-olmak_0.pdf> accessed 1 July 2024
- Şahin Caner A., 'Kat Mülkiyeti Kanunu Kapsamında Çocukların Ortak Yerlerde Oyun Oynama Haklarının Sınırlandırılması Sorunu' (2024) (60) Türkiye Adalet Akademisi Dergisi, 401-422.
- Şirin M.C., 'Çocuk Hukuku Ne Değildir?' (2016) (1) Çocuk ve Medeniyet, 49-59.

- Şirin M.C., 'Çocuğun Yararı Gözüyle Çocuğun Yüksek Yararı İlkesine Bakış' (2019) 4 (8) Çocuk ve Medeniyet, 219-240.
- Şirin M.C., 'Tom Liefaard ile Çocuk Hakları Sözleşmesi'nin 30 Yılı Üzerine Söyleşi' (2019) 4 (8) Çocuk ve Medeniyet, 241-246.
- T.C. Aile ve Sosyal Hizmetler Bakanlığı, 'Çocuk Hakları ve Türkiye Uygulaması 23 Nisan Ulusal Egemenlik ve Çocuk Bayramı Özel Yayını' (2021), <<https://www.aile.gov.tr/media/75943/cocuk-politikalari-serisi-23-nisan-ozel-yayini.pdf>> accessed 07.10.2024.
- Tandoğan O., 'Çocuk İçin Daha Yaşanılır Bir Kentsel Mekan: Dünyadan Gerçekleştirilen Uygulamalar', (2014) 9(1) MEGARON, 19-33.
- Topaç N and Musa Bardak M. And Ünal D.D., 'Çocuğun Oyun Hakkı ve Oyun Hakkına Erişememe Sebepleri' 5. Uluslararası Sosyal Beşeri ve Eğitim Bilimleri Kongresi, 5 th International Congress On Social Sciences-Humanities and Education, Editör: Prof. Dr. Giray Saynur Derman (Güven Plus Grup A.Ş. Yayınları 2019), 675-680.
- UNICEF, <<https://www.unicef.org/parenting/day-of-play>> accessed 12 December 2024.
- UNICEF, 'Policy Brief: the Impact of COVID-19 on Children' < [https://www.unicef.org/turkiye/en/documents/impact-covid-19- children%20accessed%2030](https://www.unicef.org/turkiye/en/documents/impact-covid-19-children%20accessed%2030)> accessed 30 August 2024.
- UNICEF, 'Building a Child Friendly City', <<https://www.childfriendlycities.org/building-%09child-friendly-city>,
) [<https://www.childfriendlycities.org/building-child-friendly-city>];> accessed 25 October 2024. UNICEF, 'What is a child friendly city?,<
<https://www.childfriendlycities.org/what-is-a-child-friendly-city>>, accessed 25 September 2024.
- UNICEF Türkiye, 'Child Friendly Cities', <<https://www.unicef.org/turkiye/en/child-friendly-cities> >, >, accessed 07 October 2024.
- United Nations, *Convention on the Rights of the Child* (1989) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 26 July 2024.
- United Nations, 'International Day of Play 11 June', <[https://www.un.org/en/observances/international-day-of-play#:~:text=The%20first%20Dever%20International%20Day,thrive%20to%20their%20 ofull%20potential](https://www.un.org/en/observances/international-day-of-play#:~:text=The%20first%20Dever%20International%20Day,thrive%20to%20their%20ofull%20potential)> accessed 25 December 2024.
- Waters-Davies J., *Introduction to Play* (SAGE Publications 2022).
- Yanez, K.K.L., 'Children's Participation Process' (2005) 20(1) Journal of Planning Literature, 3-14.
- Yerel İz, 'Good Practices: Localisation of Sustainable Development Goal', < <https://www.local2030.org/library/587/Good-Practices-Localization-of-Sustainable-Development-Goal.pdf>> accessed 15 October 2024.
- Yılmaz S. and Bulut Z., 'Kentsel Mekanlarda Çocuk Oyun alanlarının Yeri ve Önemi: Erzurum Örneği' (2003) 158 Milli Eğitim Dergisi [https:// dhgm.meb.gov.tr/yayimlar/dergiler/Milli_Egitim_Dergisi/158/yilmaz.htm](https://dhgm.meb.gov.tr/yayimlar/dergiler/Milli_Egitim_Dergisi/158/yilmaz.htm) accessed 24 September 2024.