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Reviewing the impact of COVID-19 on children's rights to, in and through education

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ABSTRACT

Emergency legislation introduced internationally since the beginning of the COVID-19 pandemic saw the closure of all levels of educational settings and a shift to remote teaching. Drawing lessons from an independent child rights impact assessment (CRIA) in Scotland, United Kingdom, this paper reviews the impact of COVID-19 measures on children and young people's rights to, and experiences of, education during the current crisis. Findings highlight that while measures sought to preserve the best interests of children and their basic rights to safety, a distinct lack of consultation on the impacts of the measures undermined the interdependency and indivisibility of children's human rights. Three human rights principles – participation and inclusion, non-discrimination, and mutual accountability of family and the State – were identified as being particularly significant in this assessment. Looking forward, findings point to the need for extending the range of perspectives involved in child rights impact assessments in times of crisis – where human rights are at even greater risk of being breached – and the significance of a children's rights-based perspective for re-imagining education altogether.

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Introduction

Stay-at-home orders and emergency 'lockdown' measures as we have observed internationally – throughout the COVID-19 pandemic – have severely impacted children's human rights to protection, family and social support, physical and mental health, play, participation and, fundamentally, education.¹

As outlined in articles 28 and 29 of the United Nations Convention on the Rights of the Child (hereafter, UNCRC), education is central for children to develop their '*full talents, personality and mental and physical abilities*'. However, with 188 countries enforcing periods of school closures at the start of the pandemic in the early months of 2020, 1.5 billion children and young people globally² were suddenly placed out of school, with more than two-thirds of countries rapidly employing varying models of online, remote learning as the alternative to in-person, school-based education.

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This paper examines the impact of COVID-19 measures on children and young people's rights to, and experiences of, education during the current crisis. Evidence is drawn from the author's involvement in conducting an independent child rights impact assessment (CRIA)³ in Scotland, United Kingdom from May to June 2020, in collaboration with the Observatory for Children's Human Rights in Scotland.

While focused on Scotland, this paper explores gaps in addressing children's education rights as part of human rights which are recognised internationally. Specifically, drawing on the proposition offered by Unger,⁴ this paper explores the tension that exists in education between a practical and a progressive route out of a crisis. While the practical is concerned with economic, technological or medical responses, as we have seen throughout the course of the pandemic, the progressive addresses personal and intellectual freedoms, opening out possibilities for change that are latent within the world as currently is. The latter offers a promising way forward for rethinking education for human rights today. Not simply in terms of protecting children and their rights, but in creating the conditions that enable children's agency to unfold in relational encounters with other children, adults and the world around them.

This argument is developed both theoretically and pragmatically. First, by reflecting on the different and multiple purposes of education and how they interplay with debates on children's rights. Secondly, by reviewing evidence from the independent CRIA in Scotland to illustrate constraints and possibilities for a renewed ethical stance in education, set on achieving sustainable, rights-based change. Journeying out and beyond the pandemic, this paper discusses the potential for a children's rights-based perspective to re-imagine education altogether.

Education in crisis, a crisis in education?

Although this analysis centres on children's rights as defined in the UNCRC, the relationship between education and human rights is multidimensional and enshrined across multiple, international human rights instruments. Indeed education is serving as a right in itself, providing the means for the realisation of other rights. Anderson and colleagues⁵ helpfully suggest defining this complex relationship in terms of 'rights to, in and through education':

Children have a right to education (access to quality education), they have rights in education (a non-discriminatory environment based on respect and the best interest of the child); and they gain rights through education (the ability to make informed choices concerning their lives and to participate as citizens in the world).

Given the significance of education, authors highlight that education as a human right has been described as 'overarching' 'most important' and 'crucial'.⁶

However, in the context of the COVID-19 pandemic, the emergency closures of educational settings prompted by the need to protect human rights to life, survival, and development compromised other equally fundamental rights. The consequent shift to remote, digital forms of education both highlighted and exacerbated pre-existing social, educational and economic inequalities,⁷ which has prompted a need to re-imagine what realising children's education rights looks and feels like in such times of crisis.

In one sense, the challenge is that of ensuring children's *right to* education, by obliging Unger's⁸ fundamentally practical function of education within an inherently unequal world. But in another sense, crisis and emergency contexts can also offer potential for social transformation, for reimagining and rebuilding the kind of communities, societies and normative structures that will enable children to be educated *through* the exercise of their rights.

The questions profoundly less scrutinised are therefore: what should education systems be for, and what should education do in order to ensure the integrity of children's human rights?

Addressing the tensions between children's rights and the multiple purposes of education

As argued by Osberg and Biesta,⁹ a mismatch of attention sits at the heart of current problems with education both as a field of theory and a site for policy-making: 'unable to do justice to the complexity of human togetherness under conditions of globalisation, multiculturalism and differential states of technologisation or "development"'.⁹

One of the problems of understanding education as a coherent field lies with its multiple purposes that Biesta¹⁰ conceptualises according to three domains: qualification, socialisation and subjectification. Akin to Anderson and colleagues'¹¹ notion of rights 'to' education, 'qualification' points to the acquisition of knowledge, skills and dispositions within formal, educational establishments. By being 'qualified' to do something, children and young people can enter the world as 'doers', gain professional recognition and access opportunities for work and employment.

However, as Biesta¹² maintains, education is also instrumental for socialisation into the customs and 'ways of being and doing' of society. In this sense, the socialisation purpose of education may resonate with a progressive – rather than simply practical – mission for education, which will be that of realising rights 'in' education, by questioning the structures of privilege, exclusion and discrimination which are passed on through formal education systems. The other side of this argument as we have seen, will be that an education that is simply focused on qualification may inevitably find itself empty handed with the progressive exclusion of children who do not conform to dominant expectations.

Pre-dating the pandemic, Biesta's analysis brings to surface the well-known debates around accountability, performance and measurement of children and young people's learning that have acquired centre-stage in global education policy, including Scotland, at the expense of an education supporting the exertion of 'judgement'¹³ and nurturing of civic capabilities.¹⁴

Taking this argument forward, a third purpose of education will thus be that of supporting one's 'becoming' as a person, of 'subjectification', which 'has to do with the way in which children and young people come to exist as subjects of initiative and responsibility rather than as objects of the actions of others'.¹⁵ This notion resonates with which Anderson et al. referred to as rights 'through' education.

With it being little over 30 years since the creation of the UNCRC, it is evident that the relationship between education and children's human rights is complex and multifaceted, at times showing a potentially widening rift between formal purposes of education and different conceptions of children's rights.

Exploring a way forward: a sustainable education?

Contemporary debates in the field of human rights point to widespread recognition that a children's rights-based approach is not just about protection,¹⁶ or participation,¹⁷ but it engages with the development of children and young people's capabilities to think as rational individuals.¹⁸ As argued by MacAllister, a substantial difference is made between understanding children and young people as thinking *of* themselves and *for* themselves,¹⁹ in other words, as 'committed to asking questions about unjust social orders, and they are concerned with the pursuit of the common good as well as their own'.²⁰

Bridging the divide between the individual and the collective will thus move the discourse of rights beyond consumerist approaches to education, pointing instead to the role of education in helping people to think about what might be good to do in their lives, and how the project of the individual can be fulfilled within the wider project of humanity and the biosphere in which we are hosted.

As shown in the analysis that follows, the independent CRIA²¹ highlighted the limitations of education which focuses on the individual and the practical, lost touch with the dimension of the collective, thus offering limited applications as a route out of the crisis.

In order to explore a way forward, this paper considered more specifically how children's human rights would be met within the possibilities afforded by a sustainable education, one which in the original definition given by Sterling,²² sees human flourishing through the interdependence of economic, social and ecological dimensions in human life. A sustainable education is anchored to a systemic perspective, whereby the conventional emphasis on curriculum delivery and outcomes – driven by the purpose of qualification – is replaced by a partially emergent curriculum,²³ which takes into account children, young people and educators' own lived experiences; linking theory and practice in processes of participation and co-inquiry. Arguably, this conception both aligns with and potentially expands the well-established Lundy's model of children's rights,²⁴ whereby the four, integrated elements – space, voice, audience, and influence – are socially situated and speak to the democratic function of education from a humanist perspective.

Similarly, often referred to as 'transformative', a sustainable education challenges the notion that education is strictly the concern of schools but it also reinstates the value of social learning as part of extended families and communities of both humans and more-than-humans. In this configuration, a sustainable education will move beyond what appears to be a concentrated focus on environmental education, ecology or science; a focus that tends to be exacerbated by a plethora of terms used interchangeably, such as global citizenship, education for sustainability or outdoor learning,²⁵ which do not easily relate to questions of human rights.²⁶

A sustainable education is instead advocated on interdisciplinary dialogue across the humanities and the natural sciences; a way of thinking which aims to bring together ecology with equity, bridging the environmental crisis with important questions related to the nature of democratic spaces, equity, inclusion and difference, as inextricably connected to the processes of production of knowledge in society and the shared environment in which we live. In this view, a sustainable education will take account of social practices and relationships in extended relational ecologies of place, including

the pandemic itself as a critical instance for re-thinking human relationships in and with the world.

Drawing on this framework, this paper draws on the independent CRIA as a tool for uncovering the assumptions underpinning COVID-19 emergency measures in education and then to address two key questions: to what extent education can account for the complexity and diversity of children's human rights? And in what way could such an aim be realised vis à vis the challenges of a post-pandemic world?

Materials and methods

Assessing the impact of COVID-19 on the right to education in Scotland: the independent CRIA

In Scotland, there is a favourable legislative, and growing cultural, landscape towards recognising children and young people as rights-holders. This is the result of over a decade of campaigning from children, young people and adults across civil society culminating in the UNCRC being directly, and as fully as devolved powers allow, incorporated into Scots Law (domestic legislation) in late 2021.

The Committee on the Right of the Child has well-established 'General Measures of Implementation'²⁷ (GMI) – mechanisms and processes designed to support state parties, and civil society, to facilitate, and ultimately realise, the implementation of children's human rights.²⁸ These measures include provide guidance for interpreting and implementing core themes outlined in the Convention including, for example, frameworks for rights-based approaches to budgeting.

Similarly, in education, a rights-based perspective is embraced through policies such as GIRFEC (Getting it Right for Every Child),²⁹ a framework of values and principles aligned with the UNCRC, and focusing on enabling families, schools and communities to work together to support children and young people's development and learning. Within this broader policy context, the Scottish school curriculum aims to embed the values and principles of Learning for Sustainability (LfS) as a cross-curricular offer; in this, outdoor learning is proposed as an entitlement for all children,³⁰ resonating quite strongly with key aspects of the UNCRC (i.e. Art 6, 28 and 29). However, as reported by many of the authors who supported the incorporation of LfS in Scottish policy, the gap between the rhetoric of policy priorities and on-the-ground teaching and leadership remain an ongoing concern.³¹

As aforementioned, this paper is concerned with 'child rights impact assessments' (CRIA). As Payne³² outlines, CRIs are to be used by those developing legislation, policy, or budgetary allocations to routinely consider the impacts such measures may have on children's human rights. In turn, CRIs are designed to support duty-bearers to fulfil their obligations to further advance children's human rights in the context of their proposed measures. Importantly, CRIs provide a clear rights-based framework for actively involving children and young people in the development and assessment of policies and legislation.

While CRIs are increasingly being used in Scotland,³³ very few CRIs were conducted by the Scottish Government when developing its emergency legislation despite the significant implications for children, young people and their human rights. In

response, an Independent Child Rights Impact Assessment (CRIA)³⁴ was commissioned by the Children and Young People's Commissioner, Scotland whose legal powers under the Act (2003) grant the Commissioner independent authority to hold both Scottish Government and Scottish Parliament to account over decision making processes, and to ensure children's human rights are being upheld within policy making and legislation.

The independent CRIA brought together experts from the Observatory for Children's Human Rights in Scotland, established in February 2020.³⁵ In brief, the CRIA authors each took a composite methodological approach combining documentary analysis of grey and academic literature in an adapted, iterative delphi technique approach,³⁶ integrating international and interdisciplinary perspectives to form their assessment of one of nine rights-based themes, including 'physical health', 'mental health' 'play' 'education' 'child protection'. The study also included emerging qualitative and quantitative studies capturing children and young people's views such as those gathered by the Children's Parliament³⁷ in Scotland and Scottish Youth Parliament³⁸ and evidence gathered by voluntary organisations working with a wide range of vulnerable groups. All secondary data was available within the public domain.

In the CRIA, we drew on evidence illustrating the impacts of the COVID-19 pandemic on children and young people across early years, primary and secondary education settings. Given the UNCRC is understood and interpreted in its entirety with emphasis on the interdependency, indivisibility, universality and inalienability of its articles, there was distinct overlap and cross-referencing with the other assessments being carried out. Such is the case for education in the early years, children in care or those necessitating specialist provision. On such basis, findings will first highlight different forms of 'injustice'³⁹ which arose from the negation of fundamental human rights, and secondly, will describe three, interconnected levels showing systemic influences in the negation and fulfilment of children's rights. Over the short, medium and long-term, the analysis will cover: the micro-level (impact on children, young people and families). The meso-level (impact on communities; e.g. digital divide; diversion of funds from other sectors, such as family support, counselling services, charitable activities; community learning) and the macro-level (impact on cultural and social life; e.g. employment prospects; mental and physical health),

Findings

Micro-level: impacts on children and families

Whilst decisions to close schools were justified in human rights terms in order to protect the right to life (UNCRC, Article 2) – and could be interpreted to have been decisions taken in the 'best interests' of the child (UNCRC, Article 3), the impact on children, young people and their rights was widely variable.⁴⁰

Evidence suggests that the rapid, unprecedented shift from school-based to home learning for the majority of children and young people across Scotland further exacerbated pre-existing inequalities both in access to educational provision, and in the way in which quality education was understood.⁴¹ The latter was particularly evident for children in the early years for whom movement, socialisation and play are fundamental to learning. While some nurseries remained opened, this was largely as a form of childcare

rather than education. We note here that the first element of Lundy's model – space for children's participation – was radically negated both in terms of their ability to express their views – and fundamentally, for the impossibility to attend to the full development of their '... talents and mental and physical abilities' (UNCRC Art. 29). Impacts were exacerbated on children and young people whose families were not able to care for them, 'highlighting the particular difficulties faced by those impacted by poverty, and children from minority groups and Roma communities, who are at higher risk of family separation and institutionalisation'.⁴²

Critical in this regard is the position of Article 5, which calls for a balance of responsibilities between the family and the state, with the family being understood in an inclusive sense as "the nuclear family, the extended family, and other traditional and modern community-based arrangements' (General Comment No. 7 (2005), para. 35).⁴³ Such extended notion of family is particularly relevant for children and young people from disadvantaged backgrounds for whom the community becomes all the more important.⁴⁴

It is by virtue of this joint responsibility that it is possible to argue for children and young people to be able to think not *of themselves* but *for themselves*.⁴⁵ The CRIA indicates that such ability is not innate or inherited; rather, it is a capacity that is nurtured within and through the wider family environments. But if the family is lacking the necessary support, the child is indeed left abandoned and burdened – as critics highlighted⁴⁶ – thus reiterating the deficit portrayal of a child who is unable to exercise one's rights. In this case, all manners of rights to, in and through education were breached.

Similarly, for young people who were preparing for final examinations, COVID-19 measures contravened their rights to decision-making as per UNCRC Article 12 (2), with a significant lack of available data on the negative impacts felt by this age group.⁴⁷ Crucially, the Committee on the Rights of the Child⁴⁸ emphasised that in order to reach a decision that is in the best interests of a child (Article 3) it is necessary to listen to, and engage with, the views of the child (Article 12). To be clear, 'there can be no correct application of Article 3 if the components of Article 12 are not respected [...] one establishes the objective of achieving the best interests of the child, and the other provides the methodology for reaching the goal of hearing either the child or the children' (General Comment No. 12).⁴⁹ Across all measures, a significant number of children and young people were denied their right to participate (UNCRC, Article 12), both because of the lack of opportunity to do so, and the lack of age-appropriate, accessible consultation methods.^{50 51 52}

As reported by Sutherland,⁵³ the UNCRC's use of the concept of the child's 'evolving capacities' reflects the fact that the principle applies to all children and young people, from infants to 17-year-olds.⁵⁴ On that basis, evidence from this study reinforces the importance of the synergy between family, community and the state in supporting the child's developing capacities of thinking *for themselves*, as clearly stated by the Convention; and in contributing to the co-creation of new knowledge.⁵⁵ Yet there was no evidence that the educational system was geared towards protecting the integrity of such rights.

Meso-level: relationships and wellbeing

At the time of the study, there was (and continues to be) a lack of evidence on how children and young people were maintaining social relationships during the pandemic.⁵⁶ What is clear is that in order to realise children's human rights, educational and childcare settings are fundamental in helping re-integrate children and young people in their existing social groups and help them develop confidence in building new relationships. Positive relationships with peers and other adults are key to successful transitions through education and to positive health and wellbeing,⁵⁷ and to reduce social exclusion. As Jindal-Snape⁵⁸ highlights:

Due to COVID-19 and closure of nurseries and schools, several other transitions have been triggered. For example, transition to home learning; concerns about family members and friends' health; daily encounters through media about death and dying; lack of physical and social contact with peers (unless through technology), and overall uncertainty about when, or if, they will be able to go back to nursery or school, and what that would look like.

Children and young people's multiple transitions – and associated wellbeing cannot be supported unless we understand and support the transitions they trigger for their families and professionals, and vice versa.⁵⁹ Yet, as aforementioned, children and young people were not consulted about school closures, their agency and voices were curtailed despite research highlighting the importance of involving them in the process of planning and preparation for transitions which will then have an impact on their wellbeing.^{60, 61} Emerging evidence suggests that young people are – and will continue to be – significantly negatively impacted, due to disruptions to examinations, work placements, apprenticeships and vocational training programmes (see reports by Young Carers Scotland⁶²; Scottish Youth Parliament, YouthLink Scotland and Young Scot⁶³; Who Cares? Scotland⁶⁴).

While it is also important to recognise that pre-existing evidence indicated that school closures may positively alleviate some children and young people's social experiences, and even protect them from existing forms of school-based violence,⁶⁵ children and young people may face breaches to their rights with reduced – and potentially increased demand for – pastoral support available from schools due to closures.⁶⁶ Hence, the Independent CRIA at the meso-level not only shows the tensions that exist between the different and multiple purposes of education (e.g. qualification vs. socialisation) but most importantly, that for children's rights to be exercised *through* education it is necessary for all parties – including children and young people – to forge and maintain significant social relationships (e.g. with teachers, carers, etc) in order to have influence on key decision-making processes which can further the realisation of children's rights.

Macro-level: education and economic divides in the community

The lack of state-provided or private childcare, combined with isolation from grandparents and/or other family members and friends, caused mounting pressures on parents and carers having to reconcile home working with their child's education. Additional constraints were also placed on children and young people with multiple siblings, as parents/carers needed to split their time to support their different needs – with evidence

highlight this being especially challenging for those from lone parent households.⁶⁷ Evidence suggested that some children and young people were put at a significant disadvantage – such as those whose parents or carers had disabilities and/or care experience; limited or no educational qualifications and/or literacy skills; for whom English is an additional language⁶⁸; and/or for those disengaged with school staff prior to school closures. Whilst resources were made available by Education Scotland to support schools and families with learning at home,⁶⁹ substantial evidence confirms that children and young people's access to specialist education is mediated by parental background and social capital.⁷⁰

A key example is provided by the lack of pre-existing digital literacy for children, young people and parents/carers, which combined with the lack of equipment and resources – hindered their participation in remote learning, which in turn, compromised the realisation of their rights to education.⁷¹ This is discussed in more detail in Appendix 4 of the CRIA.⁷² Considering the concerns expressed by parents in relation to supporting their children with schoolwork,⁷³ the impact on children and young people's learning cannot be underestimated.

The differential educational experiences of learning at home were also mapped against the curriculum that was delivered largely via distance mode. Children's reflections in The Corona Times journals⁷⁴ established by the Children's Parliament indicated that their learning was focused largely on literacy and numeracy with less emphasis on other areas of the curriculum such as science or the arts. This does appear to contradict the effort made by Education Scotland to support learning at home and raises questions around the opportunities children and young people have had to exercise a diverse range of human faculties and talents – academic and vocational – within the context of home learning.⁷⁵

In Scotland, the recent review of the educational outcomes of Learning for Sustainability⁷⁶ highlighted the commitment to learning beyond the classroom – within local communities, urban and wild spaces – in order to afford children and young people the opportunity to grapple with issues and problems that are relevant and important to them. However, as it became clear over the course of the pandemic, children and young people's opportunities to learn beyond the 'four walls' of the house were severely curtailed by existing inequalities in the use of outdoor spaces⁷⁷ with those in poverty having been hit the hardest.⁷⁸ As discussed in Appendix 5 of the Independent CRIA,⁷⁹ it is important to highlight that play-based learning has powerful benefits for children and young people's health, wellbeing, relationships and resilience, even more so during times of crisis and trauma. Furthermore, engagement with nature has been proven to act as a protective measure for psychological wellbeing,⁸⁰ thus aligning with the fundamental human right to life (Art. 2). Yet, as reported by Sosu and Klein,⁸¹ addressing the disproportionate short – and long-term impact of the pandemic on the most vulnerable children and young people requires closer monitoring of how their needs are met in different communities. At the macro-level, evidence showed that a curriculum per se is not sufficient without challenging narrow ideas of education as learning,⁸² while the focus shifts instead on children's relationships with 'significant others' as critical to one's rights *in and through* education.

Table 1. Differential of COVID-19 measures on education rights.

	Short term	Medium term	Long term	
Micro	Physical and emotional stress on parents, BME groups and young carers; Lack of play opportunities for younger children;	Poverty and poor health;	Lowering life-expectancy;	<i>Over time, the measures will contravene Art. 2 of the child's right to life.</i>
Meso	Digital divide; Child hunger; Social relationships; Diversion of funds from other sectors; (e.g. community learning; counselling)	Exclusion from social, cultural and recreational activities; Curtailed decision-making;	Social isolation; Environmental degradation; Curbing of employment opportunities for young people;	
Macro	Social and economic inequities across different geographical areas;	Widening social/economic divide; Increased costs from vulnerability and inequality;	Unequal access to 'free' ecosystem services (green spaces; air quality; biodiversity).	

Prior to moving to the discussion section, [Table 1](#) summarises the findings of the Independent CRIA as discussed here, according to the micro, meso and macro-level of impact assessment.

Discussion

Re-viewing education through children's rights

Returning to Biesta's conceptualisation of the multiple purposes of education,⁸³ the analysis clearly showed how the first purpose, qualification, cannot be achieved within a situation which exacerbates divisions and inequities within the social infrastructure.

Children and young people will continue to be impacted differently depending on the different types and incidence of economic, social and cultural disadvantage.⁸⁴ The right to education therefore cannot be fulfilled without considering the opportunities for all children and young people to meet their right *in* education.

One rather significant outcome of the COVID-19 pandemic is the widespread acknowledgement that this has shone a harrowing spotlight on human rights violations internationally, and that radical change is required in order to transform the lives of children and young people for generations to come. In addition, this has been coupled with a surge in movements and campaigns calling for change – Black Lives Matter, Resilient Scotland (Common Weal), Just Recovery coalition – many of which recognise a significantly revised approach to education as paramount to dismantling systemic inequalities and realising the human rights of all.⁸⁵

For children and young people in particular, the COVID-19 crisis led to a growth of awareness of the importance to understand children's human rights as inherently dependent upon the community in which children are brought up, and where they would first learn to exercise their agency. As the findings from the Independent CRIA showed, the first element of Lundy's framework, space, was also the first one to be denied for children and young people, with the social and natural spaces of the community and the school being reduced to the enclosed environment of the home, and for some, the digital

space. Undoubtedly, children and young people who could access the digital resources managed to continue with their education in some form,⁸⁶ thus fulfilling Unger's practical function of education.⁸⁷ However, Lundy's model points to a different view of what 'quality' education should mean for *all* children, irrespective of age and economic opportunities. To this regard, the educational literature is pressed to speak more directly to Lundy's question of how we can understand children and young people as *holders* of rights.⁸⁸

Following MacAllister⁸⁹ such rights are not given or passed on to children and young people; they are concerned 'with the actual lived experiences of children', and located within the complex ecology of their being and their actions. It is the *specific category of action*^{90 91} therefore that a review of education should be really concerned with. As the findings from the independent CRIA also showed, there is no shortage of actions in education as pupils – and teachers – perform tasks all the time. Yet, as argued by Vlieghe⁹²:

the school is essentially related to the use and implementation of particular technologies and to ways of organizing time and space, as well as to practices and regimes of 'gestural mechanics', linked to the installation of bodily discipline.

Conventional understandings of school practices as simply concerned with the *delivery* of curriculum by whichever means, diminish the potentialities of pupils to act, in the way they diminish their capacity to direct the quality of their attention, for example as a form of care.⁹³

This means that we are not only professing learning out of the classroom, but that we take a more critical look at how education – and its wide range of technologies – can shape the intentionality and potentiality of the body, e.g. through play, walking, acting or gardening, as these are fundamental ways in which children can co-research through their diversity⁹⁴ and through which they co-design for their *rightful* presence.⁹⁵ As exemplified by the recent Scottish study on food growing in school gardens,⁹⁶ there are opportunities to meet children's human rights to a diversity of physical, cultural, social and intellectual experiences at a time of increased restrictions,^{97 98} while also compensating for the lack of access to green spaces for health and wellbeing in at-risk communities. Similarly, incipient evidence was also emerging about the introduction of particular non-contact sports^{99 100} during the latter phase of re-opening in response to increasing awareness of the need to protect children's wellbeing.

It is in this sense that I return to the opening quest on how an education which takes children's human rights as its core can support the development of children and young people as 'subjects'; and thus how children's human rights can be met *through* education. Drawing on Article 5 of the Convention as explicitly focussed on the vital concept of the 'evolving' capacities of the child, these can be articulated according to three levels as identified by Hunter and Cassidy¹⁰¹: cognitively – to the extent to which children and young people are able to come into contact with the knowledge and experiences of others; normatively, to the extent to which appropriate policy guidelines sought to regulate access to and distribution of safe community spaces for children and young people, and the affective, as the child or young person can acquire progressive agency within a context of shared responsibilities. It is also in this sense that it is possible to connect children's rights to the aspirations of a sustainable education. Not as environmental

education or environmental protection, but as a process of re-visioning education as an act of response-ability,¹⁰² whereby children and young people's rights are exercised through the *different* ways in which they make themselves as legitimate and present to others. In this view, an embodied perspective of children's rights also advances Lundy's concept of influence, which is about paying attention to children and children being listened to, but also for them to be present and become in the relational space – of humans and more than humans – fully attending to the limits and the demands of a world in the making.

Conclusions

The findings from the CRIA pointed to the necessity of an ongoing scrutiny of safety and regulatory measures vis à vis the United Convention of the Rights of the Child (UNCRC) as an essential component of the democratic process. Yet it also demands greater understanding of the role of education not as an instrumental vehicle *for* sustainability or *for* children's rights, but as a dimension of being in children and young people's everyday experiences.

So, the first level of change concerned the shift from education as transmission of a pre-designed curriculum, to education as 'always open to experience and experimentation'.^{103 104} Such a view bridges the pedagogical with the practical and the political, for the educational process can significantly shape the actions of children and young people in particular locales, by openly addressing the intersectionalities of place, influence and disadvantage. For example, the emphasis on outdoor learning, citizenship education and play in the Scottish Curriculum could be most effectively put to this aim.

Following on, the second lesson involves a renovated understanding of Article 5 of the Convention, which points to the responsibility for both duty-bearers and educators to expand the range of perspectives informing any civic assessment. This change means

Table 2. Rethinking education through children's education rights.

	Short term	Medium term	Long term	
Micro	Extend education through 'play' to support learning and participation for young people; Target localised support for young carers and single parents;	Economic support and increased levels of physical and mental health;	Extended life-expectancy, particularly for young men and vulnerable groups;	<i>Over time, measures will strengthen Art. 5 of the child's evolving capabilities to exercise their rights.</i>
Meso	Support development of digital infrastructures at the local level Widen community support for food growing to counteract energy poverty and child hunger	Increased involvement of young people in social, cultural and recreational activities;	Social inclusion Environmental protection; Creation of new employment opportunities for young people in the green sector;	
Macro	Equitable, localised community development	Levelling of social/economic divide	Increased buffering against future pandemics from greater human and environmental health;	

going beyond consultation, participation¹⁰⁵ or even activism¹⁰⁶ by radically shifting the concerns of education from the psychological to the embodied, affective and social realms. By taking those as the departing point for education, children's human rights will be exercised as a part of a curriculum of affirmative relationships whereby children's fundamental right to education equates to a right to life.

Table 2 draws on the findings to provide a practical summary of how such re-visioning of education can support the integration of children's rights at all levels. Such recommendations have momentous implications for the realisation of children's human rights in Scotland and present a clear opportunity to fully implement a children's rights-based approach within a sustainable education. This could not be timelier given the current trajectory towards incorporating the UNCRC into Scots Law by the end of this parliamentary term.

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