ADVOCACY TOOLKIT
Campaign for a new Optional Protocol to the CRC establishing a communications procedure

For activities targeting the Third Committee of the UN General Assembly (July - October 2011) and preparing the 2012 ratification campaign of the new OP to the CRC

July 2011
About the NGO Group for the CRC

The NGO Group for the Convention on the Rights of the Child is a network of 80 international and national non-governmental organisations, which work together to facilitate the implementation of the United Nations Convention on the Rights of the child. It was originally formed in 1983 when members of the NGO Group were actively involved in the drafting of the Convention.

Since the adoption of the Convention, the NGO Group has been supporting the work of national and international NGOs as well as the Committee on the Rights of the child to monitor and implement the Convention and its Optional Protocols.

Our mission is to promote, implement and monitor the UN Convention on the Rights of the Child.

Tell us what you think about this Toolkit

We would very much appreciate any comment you might have on this Advocacy Toolkit. We would particularly like to know how you have used it, what you found most helpful and if you think that other aspects of the campaign should be addressed.

We have also included a feedback form at the end of this toolkit for you to fill out and send back to us. Thank you!

Please email Anita Goh, the NGO Group for the CRC Coordinator of the OPCRC campaign, at goh@childrightsnet.org with your comments or if you wish to know more about the campaign and how to join us.
How to use this Advocacy Toolkit

This Advocacy Toolkit has been prepared by the NGO Group for the CRC to support those who are interested in joining the campaign for a communications procedure under the Convention on the Rights of the Child.

It contains background information about the campaign, latest developments, an explanation of the key provisions of the new OP, a list of campaigning and lobbying activities you could undertake at national level, a glossary of key terms (in italic in the text), a list of abbreviations and a feedback form.

The present toolkit is a revised version of previously published toolkits. We endeavour to send you an updated version every time some significant developments happen with regards to the campaign. It is designed to inform and support those who are interested in joining the campaign for a communications procedure under the Convention on the Rights of the Child.

Updated versions will be circulated via the CRINMAIL and members of the NGO Group as the OP process unfolds.

For this campaign to succeed, it is crucial that we all join forces. The NGO Group for the CRC is coordinating the campaign, particularly at the UN level. As a network, our aims are to strengthen links between national and international advocacy and lobbying actions. Now that the international negotiating process is coming to an end, it will be even more important that national and regional organisations get actively engaged for the ratification campaign expected to start in 2012.

Through the NGO Group’s and CRIN’s website and CRINMAILS, we send regular updates on the UN process regarding the new Optional Protocol as well as ways to engage.

The toolkit is organised in different factsheets so you can pick and choose the parts that are most useful to you:

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1 A first toolkit was circulated in December 2009 to prepare the first session of the UN Open-ended Working Group and a first update was circulated in June 2010
## List of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>CRC</td>
<td>Convention on the Rights of the Child</td>
</tr>
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<td>GA</td>
<td>General Assembly of the United Nations</td>
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<td>HRC</td>
<td>United Nations Human Rights Council</td>
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<tr>
<td>MFA</td>
<td>Ministry of Foreign Affairs</td>
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<tr>
<td>NGO</td>
<td>Non-governmental organization</td>
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<tr>
<td>NGO Group</td>
<td>NGO Group for the Convention on the Rights of the Child</td>
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<tr>
<td>NGO Group WG</td>
<td>Working Group of the NGO Group for the Convention on the Rights of the Child</td>
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<tr>
<td>NHRI</td>
<td>National Human Rights Institution</td>
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<tr>
<td>OEWG</td>
<td>Open-ended working group of the United Nations Human Rights Council</td>
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<td>OP</td>
<td>Optional Protocol</td>
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<tr>
<td>OPAC</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict</td>
</tr>
<tr>
<td>OPCRC</td>
<td>Optional Protocol to the Convention on the Rights of the Child on a communications procedure</td>
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<tr>
<td>OPICESCR</td>
<td>Optional Protocol to the International Covenant on Economic, Social and Cultural Rights</td>
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<tr>
<td>OPSC</td>
<td>Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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# FACTSHEET 1 – Background information on the campaign for a new Optional Protocol to the Convention on the Rights of the Child establishing a communications procedure

## What is a communications procedure?

<table>
<thead>
<tr>
<th>Definition</th>
<th>A communications or ‘complaints procedure’ allows individuals, groups or their representatives who claim that their rights have been violated by a State that is party to an international human rights Convention or Covenant to bring a complaint before the relevant ‘treaty body’ or Committee, provided that the State has recognised the competence of the Committee to receive such complaints. It is a quasi-judicial mechanism, i.e. the decisions of the Committee on the complaints it receives are not legally binding on the State concerned.</th>
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<tr>
<td>Ways of creation</td>
<td>A communications procedure can be created as part of a core human rights treaty or as an Optional Protocol (OP) to a core human rights treaty. An OP is a stand-alone treaty that needs to be ratified by States. Since the Convention on the Rights of the Child (the CRC) did not include a communications procedure, it will have to be created through a new OP to the CRC.</td>
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## Why is a communications procedure under the CRC needed?

| To fill a protection gap | • The CRC is the only core international human rights treaty without a communications procedure. This would raise international recognition of children as rights holders  
• It will cover the full range and detail of rights in the CRC and its two existing OPs, as relevant, unlike the existing communications procedures  
• Children will have an international mechanism to appeal to when national remedies do not exist or are ineffective  
• Child rights complaints will be considered by a Committee of child rights experts |
| --- | --- |
| To strengthen the implementation of children’s rights at the national level | • The Committee will develop international jurisprudence and provide practical and authoritative interpretation of the CRC provisions and States' obligations  
• The possibility of submitting complaints at the international level will encourage States to strengthen/develop appropriate remedies at national level  
• It will allow the Committee to undertake inquiries if they receive reliable information indicating grave or systematic child rights violations by a State party |
| Useful quotes | It “would significantly contribute to the overall protection of children's rights” and “could significantly strengthen the monitoring of the Convention and the furtherance of children's rights.” |

2 A ‘core human rights treaty’ is a human rights treaty that also establishes a monitoring Committee  
4 Presentation of the UN High Commissioner for Human Rights at the UN conference celebrating 20th birthday of the CRC, 8 October 2009, Geneva, Switzerland
### How can an Optional Protocol on a communications procedure be created?

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
<th>Status</th>
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<tbody>
<tr>
<td>1.</td>
<td>Creation of a forum for discussion</td>
<td>DONE in June 2009&lt;sup&gt;5&lt;/sup&gt;</td>
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<tr>
<td></td>
<td>States support the idea and create an appropriate forum for discussion, usually this will be called an intergovernmental 'Open-ended Working Group' (OEWG)</td>
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</table>
| 2.   | Discussion on the need for the new OP and decision to move forward | DONE in December 2009<sup>6</sup>  
DONE in March 2010<sup>7</sup> |
|      | The OEWG discusses the proposal for the OP  
Once the proposal discussed, the OEWG gets backing from the UN on the need to draft the OP |        |
| 3.   | Drafting and adoption of the OEWG’s draft OP | DONE in February 2011<sup>8</sup> |
|      | The OEWG drafts the OP and adopts it |        |
| 4.   | Official adoption of the draft OP by the UN | DONE in June 2011<sup>9</sup>  
|      | The OEWG’s final draft is adopted by the UN Human Rights Council (HRC)  
The HRC’s final draft is then adopted by the UN General Assembly (GA) |        |
| 5.   | Ratification of the new OP by States | January 2012? |
|      | The new OP is open for signature, accession and *ratification*. It will *enter into force* three months after the tenth ratification |        |

### Where are we now (July 2011)?

After two rounds of negotiation in December 2010 and February 2011 (ten days in total), the OEWG finalised a draft OP<sup>10</sup>, adopted it and transmitted it to the HRC for consideration and adoption.

On 17 June 2011, the HRC adopted a resolution<sup>11</sup> endorsing the final draft OP prepared by the OEWG by consensus and transmitting it to the UN General Assembly (GA) for final adoption.

**Next:** The final draft OP will first be examined and discussed by the Third Committee of the GA in October/November 2011. It is the Third Committee that will recommend to the GA to adopt, or not, the final draft OP. Following the Third Committee’s recommendation, the GA may adopt the final draft OP in December 2012.

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<sup>5</sup> In June 2009, the HRC adopted a first resolution (A/HRC/RES/11/1) establishing an “Open-ended Working Group” (OEWG) to explore the possibility of elaborating a new communications procedure for the CRC.

<sup>6</sup> In December 2009, the OEWG held a three day meeting (the meeting was initially scheduled to last for five days but had to postpone, see xxx) during which State representatives, UN agencies, independent experts, NGOs and others discussed different aspects of an OP. For the full report of the session and the submissions made by the experts, see <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/1stsession.htm> For an account of the session day by day, see <http://www.crin.org/resources/infoDetail.asp?ID=21761&flag=even>

<sup>7</sup> In March 2010, the HRC adopted a Resolution (A/HRC/RES/13/3) changing the mandate of the OEWG from simply ‘considering’ the need for an OP to actually drafting the procedure. The Resolution also requires the Chairperson to prepare an initial draft of the OP for the next meeting.

<sup>8</sup> The OEWG met for ten days in December 2010 and February 2011 to draft the new Protocol. On 16 February 2011, the OEWG adopted a final draft OP and agreed to transmit this final draft to the UN Human Rights Council for its consideration and adoption.

<sup>9</sup> To read the final draft, go to: <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/docs/A-HRC-17-36.doc>

<sup>10</sup> See <http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/docs/A-HRC-17-36.doc>

<sup>11</sup> To read the resolution, go to: <http://www2.ohchr.org/english/bodies/hrcouncil/17session/docs/A-HRC-RES-17-18.pdf>
Key dates of the OPCRC campaign

1999
- Upon the 10th anniversary of the CRC, the Committee on the Rights of the Child decided to “consider initiating discussions on an Optional Protocol to the Convention providing a mechanism for individual communications, to ensure the availability of legal remedies at the international level with regard to the Convention” and encouraged “States parties to support its efforts in this respect”.

2006
- A group of child rights organisations initiated a campaign for a new OP to the CRC establishing a communications procedure to ensure the availability of legal remedies for children at the international level.

2008
- The campaign was established as a Working Group of the NGO Group for the CRC (NGO Group WG). Founding organisations include: Child Rights Information Network (CRIN), European Network of Ombudspersons for Children (ENOC), Global Initiative to End All Corporal Punishment of Children, Kindernothilfe, Plan International, Save the Children Norway, Save the Children Sweden, Save the Children UK, SOS Villages International, World Organisation against Torture (OMCT) and World Vision International. An international petition was launched.

2009
- The NGO Group WG started an important awareness raising campaign to mobilise support from UN Member States as well as NGOs and UN experts both in Geneva and at national level through expert meetings, joint statements at the UN Human Rights Council (HRC) and lobbying in Geneva and in capitals.
- Thanks to the coordination of efforts at both national and international levels, a ‘core group of friendly States’ was formed and backed the idea of proposing a new OP to the HRC. In June 2009, the HRC established a first “Open-ended Working Group” (OEWG) to “explore the possibility of elaborating” a new OP to the CRC. The NGO Group WG presented a joint written submission explaining the added value of such an OP and calling States for the elaboration of this new instrument. The OEWG met during five days in December 2009.

2010
- In March 2010, the OEWG presented its report to the HRC and the HRC decided to extend the mandate of the OEWG to elaborate a new OP.
- The Chairperson of the OEWG prepared a proposal for a draft to be the basis of the negotiation and circulated it in September 2010. The NGO Group WG submitted a joint written submission in October 2010 in reaction to the Chair’s proposal. The OEWG met for a first round of negotiations in December 2010 during five days and the NGO Group WG delivered joint oral statements on each item discussed.

2011
- Following the first round of negotiations, the Chairperson put together a revised draft OP and circulated it in January 2011. The NGO Group WG shortly submitted a new joint written submission in reaction to the revised draft OP.
- The OEWG met for its second and final round of negotiations in February 2011 during five days and the NGO Group WG delivered joint oral statements on each item discussed. At the end of the fifth day, the OEWG adopted a final draft OP ad referendum.
- In June 2011, the HRC adopted the final draft OP and transmitted it to the GA for final adoption.

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12 To find all the documents submitted throughout the OPCRC discussion and negotiation process and the reports of the Open-ended Working Group’s meetings, go to: http://www2.ohchr.org/english/bodies/hrcouncil/OEWG/
14 For further information, see http://www.crin.org/petitions/petition.asp?petId=1007
**FACTSHEET 2 – Explanation of the key provisions of the final draft Optional Protocol**

<table>
<thead>
<tr>
<th>Article 1 – Competence of the Committee on the Rights of the Child</th>
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| **The Protocol** | “1. A State party to the present Protocol recognizes the competence of the Committee as provided for by the present Protocol.  
2. The Committee shall not exercise its competence regarding a State party to the present Protocol on matters concerning violations of rights set forth in an instrument to which that State is not a party.  
3. No communication shall be received by the Committee if it concerns a State that is not a party to the present Protocol.” |
| **What it means** | For the Committee to be able to receive a communication:  
o. The communication must concern the violation of rights guaranteed in an instrument ratified by the State against which the communication is brought, and  
o. The State concerned must have ratified the new *Optional Protocol* on a communications procedure (OPCRC) |
| **In practice** | If the State concerned has not ratified the OPCRC = no communication can be brought against it  
If the State concerned has ratified the OPCRC = communications can only allege the violation of rights under the Convention on the Rights of the Child (CRC), the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) or the Optional Protocol on the involvement of children in armed conflict (OPAC), provided that the State has ratified those instruments (Article 1 read in conjunction with Article 5 OPCRC).  
- If the State concerned has ratified the OPCRC, the CRC and the OPSC, communications can only be brought about violations of the rights guaranteed under the CRC and the OPSC, but not under the OPAC.  
- If the State concerned has ratified the OPCRC, the OPSC and the OPAC, communications can only be brought about violations of the rights guaranteed under the OPSC and the OPAC, but not under the CRC. |
### Articles 2 and 3 – General principles guiding the functions of the Committee and new Rules of procedure

<table>
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<th>The Protocol</th>
<th>What it means</th>
<th>In practice</th>
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<tr>
<td>“Article 2 - General principles guiding the functions of the Committee”</td>
<td>The Committee shall interpret the provisions of the OPCRC in a way that it ensures the best interests and the right to be heard of the child. To that end, the new rules of procedure that the Committee will develop regarding the new communications procedure must guarantee child-sensitive procedures.</td>
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<td>In fulfilling the functions conferred on it by the present Protocol, the Committee shall be guided by the principle of the best interests of the child. It shall also have regard for the rights and views of the child, the views of the child being given due weight in accordance with the age and maturity of the child.”</td>
<td>In addition, the Committee has the power to decline to examine any communication that would be contrary to the child’s best interests. For example, communications which aim is to defend the child’s representative’s interests rather than the child’s best interests.</td>
<td>As soon as the OPCRC is adopted by the UN General Assembly, the Committee will start working on new rules of procedure regarding the new communications procedure (in February 2012 at the earliest). The aim of these rules of procedure will be to implement the provisions of the OPCRC in a child-sensitive way. The NGO Group for the CRC will coordinate inputs from civil society and children and submit them to the Committee in due course.</td>
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<td>“Article 3 - Rules of procedure”</td>
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### Article 5 – Individual communications

| The Protocol | “1. Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:

(a) The Convention;

(b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;

(c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2. Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.” |
| What it means | A communication can be submitted by:
- A victim
- A group of victims
- A representative of a victim
- A representative of a group of victims

If the communication is submitted by a representative of the victim or of the group of victims, the representative will have to show to the Committee that s/he is acting with the consent of the victim(s), except if s/he can demonstrate that s/he cannot act with their consent.

The communication has to allege the violation of rights guaranteed under the CRC, the OPSC and/or the OPAC by a State party to the OPCRC, provided that the State concerned has ratified the instruments invoked (see explanation under Article 1 OPCRC).

| In practice | There will be many cases where the representative of a child victim will not be able to show that s/he has the consent of the victim for bringing a communication:

- For example, if the victim is a baby, the representative will not be able to show that the baby consented to be represented.

- Similarly, if the victim has disappeared, has been abducted or is imprisoned but cannot be contacted, the representative will not be able to show that s/he has the consent of the victim.

In such cases, the representative will have to explain in the communication why s/he cannot get the consent of the victim. When deciding whether the representative is entitled to submit a communication on behalf of a child victim without his/her consent, the Committee will have to determine whether the communication is in the child’s best interests or not (Article 5 read in conjunction with Article 2 and Article 3.2). |
### Article 6 – Interim measures

| The Protocol | “1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State party concerned for its urgent consideration a request that the State party take such interim measures as may be necessary in exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.

2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.” |
| --- | --- |
| What it means | Interim measures are measures taken provisionally to ensure that the right to complain and seek a remedy at the international level is not rendered ineffective through irreparable damage to the complainant.

The Committee can request the State party against which a communication has been submitted to take interim measures, such as the suspension of judicial or administrative decisions (e.g. deportation of illegal migrants), until it makes a final decision on the substance of the communication. This is to prevent actions that cannot later be undone. |
| In practice | If you file a communication and would like the Committee to consider requesting interim measures, you should clearly state this in your communication.

States have no obligation to comply with the Committee’s request. However, some cases of non-compliance with interim measures’ requests have been considered as a violation of the right to have a remedy by existing human rights bodies. |
**Articles 7– Admissibility of a communication**

| The Protocol | “The Committee shall consider a communication inadmissible when:

(a) The communication is anonymous;
(b) The communication is not in writing;
(c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;
(d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
(e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
(f) The communication is manifestly ill-founded or not sufficiently substantiated;
(g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;
(h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.” |

| What it means | There are two major stages in a communications procedure: the “admissibility” stage and the “merits” stage. Before the Committee examines the details and substance of the communications it receives, it will first consider whether the communication meets the requirements of the procedure.

If it considers the communication to be “admissible”, it will then move it to the “merits” stage during which it will examine the violations alleged. If the communication fails to meet the admissibility requirements, the merits of the case will not be considered and the communication will be dismissed.

Article 7 lists the admissibility requirements for a communication to be admissible under the new OPCRC. It is worth noting that Art. 7(h) is not a standard provision of other communications procedures and was directly inspired from Article 3 OPICESCR.15 |

| In practice | These admissibility requirements can also be found in similar communications procedure and it is expected that the Committee will generally follow the interpretation given by other treaty bodies. It may also have an innovative interpretation of them to ensure that the communications is child-sensitive and in the best interests of children (Art. 7 in conjunction with Articles 2 and 3). |

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15 The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OPICESCR) was the latest communications procedure to be drafted by the UN before the OPCRC. As of 25 July 2011, 36 States have signed it, of which 3 have ratified the Protocol. It will enter into force three months after the tenth ratification.
### Articles 8 and 10 – Transmission and Consideration of communications

#### The Protocol

**“Article 8 - Transmission of the communication**

1. Unless the Committee considers a communication inadmissible without reference to the State party concerned, the Committee shall bring any communication submitted to it under the present Protocol confidentially to the attention of the State party concerned as soon as possible.

2. The State party shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have provided. The State party shall submit its response as soon as possible and within six months.”

**“Article 10 - Consideration of communications**

1. The Committee shall consider communications received under the present Protocol as quickly as possible, in the light of all documentation submitted to it, provided that this documentation is transmitted to the parties concerned.

2. The Committee shall hold closed meetings when examining communications received under the present Protocol.

3. Where the Committee has requested interim measures, it shall expedite the consideration of the communication.

4. When examining communications alleging violations of economic, social or cultural rights, the Committee shall consider the reasonableness of the steps taken by the State party in accordance with article 4 of the Convention. In doing so, the Committee shall bear in mind that the State party may adopt a range of possible policy measures for the implementation of the economic, social and cultural rights in the Convention.

5. After examining a communication, the Committee shall, without delay, transmit its views on the communication, together with its recommendations, if any, to the parties concerned.”

#### What it means

These articles provide the steps the Committee shall follow when it receives a communication that is *prima facie* (ie. at first sight) admissible, and in particular the different time lines of the procedure.

The phrase “as soon as possible and within six months” in Art. 8 para.2 is intended to encourage States to provide a swifter response than in other communications procedures (the standard phrase is “within six months”).

Article 10 also provides special requirements in two cases: 1) when the Committee has requested interim measures (see Article 6 OPCRC), it shall prioritise that communication, and 2) if the communication alleges violations of economic, social or cultural rights, the Committee shall use a specific standard of review taking into account the “reasonableness of the steps taken by the State Party in accordance with article 4” of the CRC.

#### In practice

The language of Article 10 para. 4 was directly taken from Article 8 para. 4 OPICESCR. Its added value is still unclear as the Committee would have had to refer to Article 4 of the CRC to determine States’ obligations regarding economic, social or cultural rights anyway.
### Article 9 – Friendly settlement

| The Protocol | 1. The Committee shall make available its good offices to the parties concerned with a view to reaching a friendly settlement of the matter on the basis of respect for the obligations set forth in the Convention and/or the Optional Protocols thereto.  
2. An agreement on a friendly settlement reached under the auspices of the Committee closes consideration of the communication under the present Protocol. |
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<tr>
<td>What it means</td>
<td>This article allows the resolution of a communication through a friendly settlement, i.e. without the Committee having to reach a decision on the alleged violation(s). If a friendly settlement is reached “under the auspices of the Committee”, this closes the communications procedure.</td>
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</table>
| In practice | It is not clear whether the Committee shall make available its good offices upon the request of a party, or whether it could proactively seek the resolution of a communication through a friendly settlement.  
While this article is based on the language of Article 7 OPICESCR, its paragraph 2 contains an innovation in the phrase “reached under the auspices of the Committee” which was added to provide extra protection to the victim. The exact scope of this protection will need to be further defined by the Committee in its rules of procedure or practice. |
### Article 13 – Inquiry procedure for grave or systematic violations

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<td>“1. If the Committee receives <strong>reliable information</strong> indicating <strong>grave or systematic violations</strong> by a State party of rights set forth in the Convention or in the Optional Protocols thereto on the sale of children, child prostitution and child pornography or on the involvement of children in armed conflict, the Committee shall invite the State party to cooperate in the examination of the information and, to this end, to submit observations without delay with regard to the information concerned.</td>
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<tr>
<td>2. Taking into account any observations that may have been submitted by the State party concerned, as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State party, the inquiry may include a visit to its territory.</td>
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<tr>
<td>3. Such an inquiry shall be conducted <strong>confidentially</strong>, and the cooperation of the State party shall be sought at all stages of the proceedings.</td>
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<tr>
<td>4. After examining the findings of such an inquiry, the Committee shall transmit without delay these findings to the State party concerned, together with any comments and recommendations.</td>
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<tr>
<td>5. The State party concerned shall, as soon as possible and within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.</td>
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<td>6. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2 of the present article, the Committee may, after consultation with the State party concerned, decide to include a summary account of the results of the proceedings in its report provided for in article 16 of the present Protocol.</td>
</tr>
<tr>
<td>7. Each State party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in the present article in respect of the rights set forth in some or all of the instruments listed in paragraph 1.</td>
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<tr>
<td>8. Any State party having made a declaration in accordance with paragraph 7 of the present article may, at any time, withdraw this declaration by notification to the Secretary-General of the United Nations.”</td>
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<th>What it means</th>
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<td>The inquiry procedure is an optional <strong>mechanism</strong>: paragraph 7 allows States parties to the OPCRC to “opt-out” from the inquiry procedure by way of declaration, while paragraph 8 allows States Parties that opted-out to withdraw that declaration.</td>
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<td>If the Committee receives reliable information from any relevant stakeholder, including NGOs, indicating grave or systematic violations of children’s rights, it can decide to conduct an inquiry confidentially but will have to transmit the information it receives to the State concerned. Any visit to the State concerned requires the consent of that State.</td>
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<th>In practice</th>
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<td>The inquiry procedure defers from the communications procedure as it does not require victims or representatives of victims to allege the violation. There are no “admissibility requirements”, which means that the source of information could request the Committee to keep its identity confidential. In turn, the inquiry procedure is optional and needs the cooperation of the <strong>State party</strong> at each stage of the procedure.</td>
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We are now reaching the final international stage of the campaign: the adoption of the final draft OPCRC by the UN General Assembly (GA), which comprises all 192 UN Member States.

Resolution recommended to the GA by the HRC

On 17 June 2011, the UN Human Rights Council (HRC), a subsidiary body of the GA, adopted the final draft OP. In its Resolution A/HRC/RES/17/18, it recommended to the GA the adoption of the following resolution:

“The General Assembly,

Welcoming the adoption by the Human Rights Council, through its resolution 17/… of … June 2011, of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,

1. Adopts the Optional Protocol to the Convention on the Rights of the Child on a communications procedure as contained in the annex to the present resolution;

2. Recommends that the Optional Protocol be opened for signature at a signing ceremony to be held in 2012, and requests the Secretary-General and the United Nations High Commissioner for Human Rights to provide the necessary assistance.”

Discussion at the Third Committee of the GA – October 2011

The resolution recommended by the HRC will first be discussed by the Third Committee of the GA during the 66th session of the GA in October and November 2011. The discussion of the new Optional Protocol will likely take place during the second week of its session, ie. 10-14 October 2011.

The Third Committee will take action on this proposal and transmit it to the GA for its final endorsement in December 2011

Our objectives

Although the final draft OP adopted by the HRC is not perfect, we will work towards its smooth adoption by the Third Committee and the GA. Any reopening of the text at the Third Committee level would be a very risky exercise: it would not guarantee the improvement of the current provisions and could lead to the inclusion of weaker provisions. If such event were to happen, the consensus found at the HRC would be destroyed and the vote of 192 States would have to be secured.

The NGO Group and its partners will therefore advocate for the adoption of the final draft OP as it currently stands by the GA. To that end, we will arrange meetings with a number of UN missions in New York to secure the consensus and ensure a smooth discussion at the Third Committee level.

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16 The resolution is accessible here: [http://www.crin.org/docs/FileManager/NGOGroup/A_HRC_17_L.8_English_OR.do](http://www.crin.org/docs/FileManager/NGOGroup/A_HRC_17_L.8_English_OR.doc)
### What can you do?

**Lobby your government to support the adoption of the OPCRC at the Third Committee and GA**

1. Write to your Ministries (Justice, Foreign Affairs, Social Affairs, etc.) to find out whether your country knows about this process. If not, send them information about it and request a meeting.
2. Write to your Ministries (Justice, Foreign Affairs, Social Affairs, etc.) to find out whether they have discussed a formal position on this issue.

(see the draft model letter annexed)

3. If you are based in New York, write to the Ambassador of the UN permanent mission of your country in New York to find out whether they have a formal position on this issue and request a meeting to discuss their support and/or encourage them to gather more support for the OPCRC
4. Organise a roundtable with child rights NGOs, the Ombudsperson for children and/or the National Human Rights Institution and representatives of your government to discuss the OPCRC and why it needs to be supported by your State and adopted by the GA.

**Network with other NGOs**

Join forces with those already active in your country:

- Check which organisations have signed the petition in your country as they may already be active in the campaign or willing to work together with you: [http://www.crin.org/petitions/signatures.asp?petID=1007&orderby=country](http://www.crin.org/petitions/signatures.asp?petID=1007&orderby=country)
- Contact Anita Goh, the NGO Group for the CRC Coordinator of the OPCRC campaign at goh@childrightsnet.org to know who is already active in your country

**Raise awareness on the OPCRC in the media**

1. Write an article or an opinion piece about this campaign and get it published in your national or local paper
2. Contact any journalist you may know who would be sympathetic to this issue and ask them to write about it

(see CRIN’s Media Toolkit if you need advice on writing to the media: [http://www.crin.org/docs/media toolkit2.pdf](http://www.crin.org/docs/media toolkit2.pdf))

### Additional tools for your advocacy

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<tbody>
<tr>
<td>Webpage of OHCHR on the UN Open-ended Working Group</td>
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<tr>
<td>Your State’s position on international communications procedures and on the OPCRC Background information and Latest news on the OPCRC</td>
</tr>
</tbody>
</table>

### Feedback: We need your input

Tell us about activities you have been involved in, whether you got any media coverage, or a response from your Ministries, etc. and help us to strengthen the campaign and become more influential!

Please fill out the feedback form (annex 2) and send back to us. Email Anita Goh, the NGO Group for the CRC Coordinator of the OPCRC campaign, at goh@childrightsnet.org
Annex 1: Model letter to your government

DRAFT LETTER FROM NGOs TO MINISTRIES OF FOREIGN AFFAIRS/JUSTICE/SOCIAL AFFAIRS

Now that a draft Optional Protocol (OP) has been finalised and adopted by the UN Human Rights Council (HRC), it only needs to be officially adopted at the UN General Assembly (GA), after discussion at the GA’s Third Committee.

Your Ministry of Foreign Affairs (MFA) would be your first point of contact to know your State’s position regarding the new Optional Protocol and the main interlocutor to convince to support the adoption of the new OP at the GA.

We would however suggest that you send a letter both to the Ministry of Foreign Affairs and to the Ministry/person you normally work with on CRC issues (lead for the State’s report, etc.). It may be appropriate to write to a Minister, or to a senior official, adapting the following:

ADOPTION OF THE FINAL DRAFT OPTIONAL PROTOCOL ON A COMMUNICATIONS PROCEDURE FOR THE CRC

Dear …,

As you will know, a final draft Optional Protocol to the Convention on the Rights of the Child (OPCRC), to provide a communications procedure, has been adopted by the UN Human Rights Council in June 2011 and transmitted to the UN General Assembly for final adoption at its upcoming session.

The CRC is the only core human rights instrument which lacks a communications procedure. The final adoption of the new Optional Protocol by the UN General Assembly will send a strong signal children too, are rights holders and that they have the right to complain internationally when no effective remedies are available to them in their country.

We hope that (name of your state) will actively support the adoption of the new Optional Protocol by the UN General Assembly by co-sponsoring the resolution officially adopting this new international instrument.

We would welcome a meeting to discuss this and other issues concerning the new Optional Protocol.

…

Note: If your State already co-sponsored the HRC resolution adopting the final draft OP\(^\text{17}\), you may want to add a paragraph welcoming the support of your State at the HRC and encouraging it to do the same at the GA and to gather more support from other States.

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\(^{17}\) 50 States co-sponsored the Human Rights Council resolution: Albania, Andorra, Austria, Bangladesh, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Ecuador, Equatorial Guinea, Estonia, Finland, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Japan, Jordan, Kazakhstan, Kenya, Liechtenstein, Luxembourg, Maldives, Macedonia, Montenegro, Morocco, Panama, Paraguay, Peru, Portugal, Senegal, Serbia, Slovenia, Slovakia, Spain, Thailand, Timor-Leste, Turkey, Ukraine, United States of America, Uruguay and Zambia.
Annex 2: Feedback on Your Lobbying

In order to coordinate our actions both at national and at international levels, it would be really great if you could complete this form and return to the NGO Group for the CRC via email to goh@childrightsnet.org

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<th>Name</th>
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<tbody>
<tr>
<td>Organisation</td>
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<tr>
<td>Contact details (email, telephone/fax number or Skype name, full postal address of the organisation and of the key person to contact)</td>
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<tr>
<td>Does your organisation belong to a national child rights coalition/network? If so, which one (include contact details)</td>
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<tr>
<td>What is your Government's position on the OPCRC? What are your Government's main concerns/questions?</td>
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<tr>
<td>Will your Government co-sponsor the General Assembly resolution adopting the final draft Optional Protocol?</td>
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<tr>
<td>Is your Government planning for the ratification of the new Optional Protocol?</td>
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<tr>
<td>Who you contacted – Name, Position and Department, when?</td>
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<tr>
<td>Any other relevant information?</td>
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GLOSSARY OF KEY TERMS

COMMITTEE: see under TREATY BODIES

COMPLAINANT: Also 'plaintiff' – the person or party bringing a case, for example a child who has had his/her rights breached.

CONVENTION: Also called Treaty or Covenant, it is a binding agreement between states. Conventions are stronger than Declarations because they are legally binding for governments that have signed them. When the UN General Assembly adopts a convention, it creates international norms and standards. Once a convention is adopted by the UN General Assembly, Member States can then ratify the convention, promising to uphold it. The UN can then censure governments that violate the standards set forth in a convention.

CONVENTION ON THE RIGHTS OF THE CHILD (CRC, adopted 1989; entered into force 1990): Convention setting forth a full spectrum of civil, cultural, economic, social and political rights for children. Since its adoption, it has been ratified more quickly and by more governments than any other human rights instrument. The USA and Somalia are the only countries which have failed to ratify. The Convention is also the only international human rights treaty that expressly gives non-governmental organisations (NGOs) a role in monitoring its implementation (under Article 45a).

CORE GROUP: This refers to the initial group of States that sponsored the Resolution of the Human Rights Council to establish the Open Ended Working Group for the Optional Protocol under the CRC.

COVENANT: Binding agreement between states; used synonymously with Convention and Treaty. The major international human rights covenants, both passed in 1966, are the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

ENTRY INTO FORCE (OF A TREATY): Entry into force of a treaty is the moment in time when a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine the moment of its entry into force. This may be a date specified in the treaty or a date on which a specified number of ratifications, approvals, acceptances or accessions have been deposited with the depositary. The date when a treaty deposited with the Secretary-General enters into force is determined in accordance with the treaty provisions.

ENTRY INTO FORCE (FOR A STATE): A treaty that has already entered into force may enter into force in a manner specified in it for a State or international organization that expresses its consent to be bound by it after its entry into force.

JURISPRUDENCE: The collection of reported cases from previous legal hearings that together form the body of law within a jurisdiction.

MANDATE: The literal definition of 'mandate' is simply a 'command' or 'instruction.' In the context of the UN, it is frequently used to refer to the document describing how a particular role is to be fulfilled. For example, the mandate of the Special Representative on Violence Against Children may include investigation into the different types of violence experienced by children. Or you might say s/he is mandated to investigate alleged cases of violence against children as perpetrated by governments, for example.
GLOSSARY OF KEY TERMS

MECHANISM: A process or body that monitors the implementation of an instrument(s). The mechanism is usually created by the instrument that it monitors. E.g. the Committee on the Rights of the Child was created by Article 43 of the Convention on the Rights of the Child. Other examples include the Human Rights Council, Special Rapporteurs, complaints procedure 1503.

MEMBER STATES: Countries that are members of the United Nations or other relevant intergovernmental body.

OMBUDSMAN or OMBUDSPERSON: An ombudsman is an official, usually appointed by the government, parliament or other institutions such as the European Union, who is charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens. In some jurisdictions, the Ombudsman is referred to, at least officially, as the 'Parliamentary Commissioner' (e.g., the West Australian state Ombudsman). As well as for a government, an ombudsman may work for a corporation, a newspaper, an NGO, or even for the general public. In the case of children, such roles may be referred to as both ‘Children’s Ombudsman’ or ‘Children’s Commissioner’.

OPTIONAL PROTOCOL (OP): An optional protocol to a treaty is a multilateral agreement that States parties can ratify or accede to, intended to further a specific purpose of the treaty or to assist in the implementation of its provisions.

QUASI-JUDICIAL: Having to do with powers that are to some extent judicial, for example human rights commissions may have quasi-judicial powers.

RATIFICATION, RATIFY: Ratification, acceptance and approval all refer to the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Most multilateral treaties expressly provide for States to express their consent to be bound by signature subject to ratification, acceptance or approval.

RULES OF PROCEDURE: The formal rules adopted by a treaty body to govern the way in which it undertakes its business. Each committee is empowered by the relevant treaty to adopt its own rules of procedure. The rules of procedure usually cover such matters as election of officers and procedures for adopting decisions especially where no consensus can be reached. Rules of procedures are related to, but distinct from, working methods.

STATE PARTY: A State party to a treaty is a State that has expressed its consent to be bound by that treaty by an act of ratification, acceptance, approval of accession etc, where that treaty has entered into force for that particular State. This means that the State is bound by the treaty under international law.

TREATY: Formal agreement between states that defines and modifies their mutual duties and obligations; used synonymously with ‘Convention’ and ‘Covenant’. When Conventions are adopted by the UN General Assembly, they create legally binding international obligations for the Member States who have signed the treaty. When a national government ratifies a treaty, the articles of that treaty become part of its domestic legal obligations.

TREATY BODY: A Committee of independent experts formally established through the principal (or ‘core’) international human rights treaties to monitor States Parties’ compliance with the treaties. Eight Treaty bodies have been set up for the core UN human rights treaties to monitor states parties’ efforts to implement their provisions.