

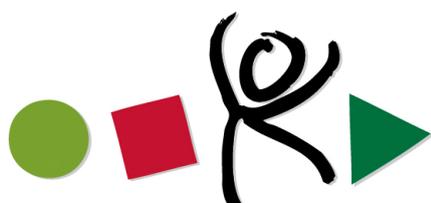
Ratification Toolkit

Optional Protocol to the Convention on the Rights of the
Child on a Communications Procedure (OPIC)



This Ratification Toolkit was developed by Child Rights Connect and finalised in August 2020.

About



child rights connect

[Child Rights Connect](#) is an independent, non-profit network that is made up of national, regional and international child rights organisations and coalitions. Our membership covers almost every country in the world.

We are one of the largest international networks for child rights. Our shared aim is to ensure that all children can fully enjoy their rights, which are defined by the Convention on the Rights of the Child (UNCRC) and its Optional Protocols (OPs). We were initially set up in 1983 to influence the drafting of the UNCRC. Since then, we have worked for decades to connect the United Nations human rights system to the daily realities of children's lives.

Visit our website: <https://www.childrightsconnect.org>



Child Rights Connect was instrumental in the creation of the [Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure \(OPIC\)](#) and in the ratification campaign that led to its entry into force in April 2014.

Through this new treaty, the international community has put children's rights on an equal footing with other human rights and allowed for more accountability of States. The recognition that children have the right to appeal to an international mechanism specific to them, if violations cannot be addressed effectively at national level, is also the ultimate example right to be heard and participate into practice.

Visit our dedicated website to the OPIC: <https://opic.childrightsconnect.org/>

Abbreviations

African Charter on the Rights and Welfare of the Child	ACRWC
African Committee of Experts on the Rights and Welfare of the Child	ACERWC
Association des Juristes Sénégalaises	AJS
Child Nepal	CN
Civil Society Organisation	CSO
Coalition Nationale des Associations et ONGs en Faveur de l'Enfant	CONAFE
Comité Sénégalais des droits de l'homme	CSDH
Committee on the Rights of the Child	The Committee
European Convention on Human Rights	ECHR
Groupe d'Initiative Nationale	GIN
Mercado Común del Sur	Mercosur
National Human Rights Institution	NHRI
National Initiative Group	GIN

Non-Governmental Organisation

NGO

Office of the High Commissioner for Human Rights

OHCHR

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

OPAC

Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure

OPIC

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

OPSC

Organisation of American States

OAS

Red Latinoamericana y Caribeña por la Defensa de los Derechos de los Niños, Niñas y Adolescentes

REDLAMYC

Reunión de Altas Autoridades sobre Derechos Humanos y Cancillerías del MERCOSUR

RAADDHH

UN Special Representative of the Secretary-General on Violence Against Children

SRSB on VaC

United Kingdom

UK

United Nations

UN

United Nations Convention on the Rights of the Child

UNCRC

Universal Periodic Review

UPR

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Foreword

“The doors were closed but now they are open, and I am going to study hard so that I can be a lawyer when I grow up.”

These are the words spoken (in Spanish) in a video sent by a 12-year-old Moroccan girl to the UN Committee on the Rights of the Child. She was born in Spain but had been unable to access education in the country where she lived. After exhausting all other remedies in Spain, her lawyer assisted her to bring a communication to the Committee on the Rights of the Child. This case was solved in a matter of months, as it was resolved through a friendly settlement, and resulted in the girl being enrolled in school.

The fact is that if the government of Spain had not ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OPIC), then she would not be in school today. To its credit, Spain was one of the first states to ratify OPIC, together with Albania, Bolivia, Costa Rica, Gabon, Germany, Montenegro, Portugal, Slovakia, and Thailand. For all of these states, OPIC has been in operation since the date of the treaty’s entry into force, which was three months after the 10th state ratified or acceded to the OPIC, thus on 14 April 2014.

The CRC committee registered its 100th case in 2019, and the number of individual communications is steadily rising. In addition to the individual communications, OPIC offers the possibility of an inquiry procedure in situations where there are allegations of a grave violation of children’s rights – to date, only one inquiry has been undertaken. And yet, as we all know, there are many grave violations of children’s rights in many countries. It is clear that the potential to deal with some of the most serious child rights violations is not being fully utilised.

While the CRC and its first two optional protocols have attracted high ratification rates, states appear to be more reticent about signing up to OPIC. Participants in a roundtable discussion held in 2019 explored some of the reasons for that reluctance. This Toolkit explores some of the concerns and misconceptions that may be creating barriers to ratification. It draws out the ‘value-added’ of ratification – and explains the nuts and bolts of the ratification process. The national case studies provide insights into context-specific concerns that governments have, and demonstrate innovative advocacy strategies that speak to those concerns.

This Toolkit provides a better understanding of OPIC and arms child rights advocates with concrete arguments for ratification. Ratification opens the door to the access to justice for children, just as OPIC opened the doors of learning for the Moroccan child living in Spain.

Ann Skelton

Member, Committee on the Rights of the Child
Chairperson: Working Group on Communications
September 2020

Introduction

The [Optional Protocol on a Communications Procedure to the Convention on the Rights of the Child \(OPIC\)](#)¹ is an international treaty that entered into force on 14 April 2014 and allows accountability for children’s human rights violations. Through this new treaty, the international community has put children’s rights on an equal footing with other human rights and allowed for more accountability of States. The recognition that children, as rights-holders, have the right to appeal to an international mechanism specific to them, if violations cannot be addressed effectively at national level, is also the ultimate example of putting children’s right to be heard and participate into practice.

Through the development of international child rights case law under the OPIC, and the national implementation of the instrument, States will have a better understanding of the meaning and scope of the rights contained in the United Nations Convention on the Rights of the Child (UNCRC), the Optional Protocol to the UNCRC on the sale of children, child prostitution and child pornography (OPSC) and the Optional Protocol to the UNCRC on the involvement of children in armed conflict (OPAC). The OPIC helps States better fulfil their human rights obligations while strengthening their national legal/policy frameworks for the protection of children’s rights at the national level.

Mechanisms available under the OPIC

The **communications procedure**, also called “complaints procedure” is composed of:

- The **individual communications procedure** (1) which allows children, groups of children or their representatives, who claim that their rights have been violated under the UNCRC and/or the OPAC and/or the OPSC to bring a complaint or communication before the relevant United Nations’ (UN) ‘treaty body’, the Committee on the Rights of the Child (the Committee) if violations cannot be addressed effectively at national level.
- The **inter-state communications procedure** (2) allows States parties to complain to the Committee on the Rights of the Child, about alleged violations of the UNCRC and/or the OPAC and/or the OPSC by another State party of these instruments.

The **inquiry procedure** is a mechanism allowing the Committee to investigate allegations of grave or systematic violations of the UNCRC, OPSC and/or the OPAC by a State party to these instruments, if the State concerned has ratified the OPIC and accepted its inquiry procedure.

For more information on the OPIC mechanisms, please refer to our Info Pack Publication and [website dedicated to the OPIC](#).

¹ 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 United Nations Convention on the Rights of the Child (UNCRC) did not include a communications procedure, it had to be created through a new OP.

Notwithstanding the OPIC's importance and potential to better fulfil child rights at the national level, by August 2020, 46 States had ratified the instrument, representing 20% of those who have ratified the UNCRC. These numbers contrast with the status of ratification of the other two Optional Protocols to the UNCRC. Indeed, the OPAC has been ratified by 170 States, 80% of those having ratified the UNCRC; and the OPSC has 176 States-parties, almost 90% of those parties to the UNCRC. If the annual rate of countries ratifying the OPIC is maintained, currently at 5.7 countries per year, it will take 20 years for 80% of States parties to the UNCRC to ratify the OPIC ². What accounts for the low level of ratifications of the OPIC?

One of the main findings of the April 2019 Roundtable Discussion³ is that the OPIC is still largely unknown and/or not well understood by States, parliamentarians, Civil Society Organisations (CSOs) and by children themselves. In this sense, further ratification of the OPIC would be hindered by a lack of accessible information on the instrument and concrete experiences of its national implementation.

The [2019 April Roundtable Discussion](#), held in Geneva, offered the opportunity to discuss ratification experiences for the first time as well as the national implementation of the OPIC; it was attended by a wide diversity of actors including UN States representatives, National Human Rights Institutions (NHRI), Children's Ombudspersons, Parliamentarians, members of academia and civil society representatives. It was organised by Child Rights Connect together with the Office of the UN Special Representative of the Secretary-General on Violence Against Children (SRSG on VaC), the Office of the High Commissioner for Human Rights (OHCHR) and the Committee on the Rights of the Child (the Committee), in the context of the fifth anniversary of the entry into force of the OPIC.

The findings of the Roundtable Discussion further confirmed that in order to persuade States to ratify the OPIC, it is crucial for the instrument to be supported by key stakeholders; the universal ratification of the OPIC can only be achieved through a joint effort of all the key actors involved in the promotion and protection of child rights. In this sense, it is imperative to develop and widely disseminate more accessible

The publication aims to address:

- What is the added value of the OPIC?
- Why is its ratification important for the promotion and protection of child rights at the national level?
- What does the ratification of the OPIC entail?
- What can be expected from the OPIC and the Committee?
- What have been some of the ratification experiences and national advocacy work to promote OPIC ratification? What have been the challenges and lessons learned?

² You can check the OPIC ratification status and trends (including graphs and charts) on our OPIC website here

³ See also: <https://www.childrightsconnect.org/towards-a-better-implementation-of-the-uncrc-through-its-third-optional-protocol-on-a-communications-procedure/>

information on the function and reach of the OPIC to States and all the key actors making the ratification possible, such as parliamentarians, NHRIs and civil society, including children.

The goal of the Ratification Toolkit Publication - which is part of a broader Info Pack Publication project to provide a better understanding of the OPIC - aims to explain the importance of ratifying the OPIC, what exactly it entails and what can be expected of the OPIC and the Committee. Through concrete arguments for ratification and the sharing of case studies of ratification experiences, as well as advocacy work being carried out at the national level, the publication aims to provide concrete tools for any person or organization - including public officials, NHRIs and civil society - advocating for the ratification of the instrument at the national level.



Why ratify the OPIC?

What is its added value?

Communications procedure allows persons or States to complain to a [UN human rights treaty body](#) about violations of rights protected under a UN human rights treaty. Up until 2011, the UNCRC was the only major international human rights treaty which did not have a communications procedure. Indeed, every other core human rights treaty had a communications procedure, in addition to a reporting procedure. When the OPIC entered into force in 2014, this was the first time that children could lodge a complaint with the UN about violations of their specific rights. Through the OPIC, the international community has put children's rights on an equal footing with other human rights and allowed for more accountability of States.



Access to justice and accountability for child rights violations

The Committee has highlighted that “for rights to have meaning, effective remedies must be available to redress violations” and that “children’s special and dependent status creates real difficulties for them in pursuing remedies for breaches of their rights.”⁴ Further, where rights are found to have been breached, the Committee has also stated that there “should be appropriate reparation, including compensation, and, where needed, measures to promote physical and psychological recovery, rehabilitation and reintegration” of the child.⁵

Ideally, national systems address and provide redress for children’s rights violations. In practice, however, this is not always the case, and mechanisms should exist to provide backup ways to address potential gaps in protection. Ensuring effective access to an international justice system that protects the rights of children, addresses violations and provides them with remedies while strengthening national justice systems is an effective way to start addressing this problem.

According to a report of the United Nations High Commissioner for Human Rights on Access to Justice for Children submitted in December 2013, access to justice for children is defined as “the ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards, including the Convention on the Rights of the Child.”⁶

Through the HRC Resolution, adopted only a few weeks before the entry into force of the OPIC, States acknowledged the importance of having accountability mechanisms in place for violations of children’s rights, making concrete commitments to measures to adopt that would ensure access to justice for children, while recognizing them as rights-holders.

⁴ General Comment No.5 (2003): General measures of implementation of the Convention of the Rights of the Child (art.4, 42 and 44, para .6), CRC/GC/2003/5, para, 24.

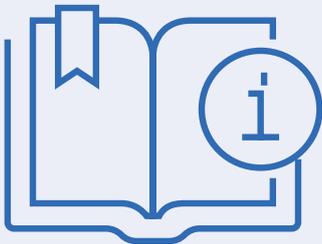
⁵ Ibid.

⁶ Annual Report of the United Nations High Commissioner for Human Rights Council, pursuant to Resolution 22/32 of the Human Rights Council, Access to Justice for Children, 16 December 2013, [A/HRC/25/35](#), paragraph 4.

If violations cannot be addressed effectively at the national level, the OPIC enhances the accountability of States parties to the UNCRC and its Optional Protocols while providing remedies for violations of child rights.

The Committee, a UN treaty body, is considered a quasi-judicial mechanism, meaning that it is not able to make legally binding judgments. However, by ratifying the OPIC, States grant the Committee the competence to determine whether the UNCRC and/or its Optional Protocols have been violated. Thus, States parties to the OPIC commit to consider the Committee's decisions in good faith and to guarantee access to effective remedies if a violation is determined to have taken place.

In the event that the Committee finds that a State party has violated its obligations under the UNCRC or its first two Optional Protocols, it will make concrete recommendations on



The competence of the Committee and UN treaty bodies

It is important to note that the Committee, like other UN treaty bodies, are not appellate courts of last resort for judgments delivered in the national system. The UN treaty bodies are competent to consider possible violations of the rights guaranteed by the treaties concerned, but not to act as an appellate instance with respect to national courts and tribunals. Thus, the UN treaty bodies cannot, in principle, examine the determination of the administrative, civil or criminal liability of individuals, nor can they review the question of innocence or guilt. Similarly, the UN treaty bodies cannot review the facts and evidence in a case already decided by the national courts. In other words, the competence of the UN treaty bodies within the framework of the competence to study individual communications is limited to determining whether or not there has been a violation of any of the rights recognised under the respective treaty in a specific case.⁷

the remedies for the alleged victim(s), such as inter alia, rehabilitation, reparation, financial compensation, guarantees of non-repetition and requests to prosecute the perpetrator(s), which can have far-reaching effects. In certain cases, the Committee may also recommend that the State party take legislative, institutional or any other kind of general measures to avoid the repetition of such violations, thus addressing possible structural causes of the violations.

⁷ Jorge Cardona Llorens, "The Legal value of the Views and interim measures adopted by United Nations Treaty Bodies", in the Spanish Yearbook of International Law, Vol 23 (2019), p151.

Children as rights-holders

The preamble of the OPIC reaffirms the status of the child as a subject of rights. By allowing children to complain to an international mechanism if their rights have been violated, the OPIC recognises children as rights-holders. When the OPIC entered into force in April 2014, Navi Pillay, UN High Commissioner for Human Rights at the time, exclaimed proudly: "Children will now be able to join the ranks of other rights-holders who are empowered to bring their complaints about human rights violations before an international body." Indeed, the OPIC ensures that children's rights violations can be addressed at the international level in the same way as for other rights-holders.

Allowing children to use the OPIC gives them a chance to stand up for their rights and be actors for their protection and thereby agents of change. This fulfils'

their right to participation and their right to express their views, which should be given due weight in accordance with their age and maturity, in compliance with article 12 of the UNCRC.

The existence of individual communications and inquiries, as well as the publication of the Committees' adopted decisions and inquiry reports under the OPIC, serves to promote public awareness of children's rights domestically and globally.

The only complaints mechanism to cover the full range of children's rights and provide child-sensitive procedures

The OPIC has great theoretical and practical importance in terms of enhancing access to justice for children. Indeed, while children and their representatives can use the mechanisms already established under other international instruments to pursue many of their rights, those instruments do not cover, separately or together, the full range and detail of rights for children set out in the UNCRC (the UNCRC contains many unique rights for children; see the box below). If children and their representatives use other existing international communications procedures, they will not be able to allege the same violations of rights as they would under the OPIC. The instrument covers not only violations of the UNCRC but also those of the OPAC and the OPSC. Furthermore, the instrument also provides an avenue where the experts on children's unique rights (the Committee) can hear children's claims and interpret the rights according to the general principles of the UNCRC. According to the OPIC, in fulfilling the functions conferred on it by the instrument, the Committee shall be guided by the principle of the best interests of the child and shall also have regard for the rights and views of the child, with the views of the child given due weight in accordance with the age and maturity of the child.⁸



In brief

By ratifying the OPIC, States acknowledge children as rights-holders, highlight their commitment to promote and protect the rights of children and recognise the need for accountability to their obligations.

⁸ Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, Article 2: General Principles Guiding the Functions of the Committee.



Unique rights for children in the UNCRC

Some articles in the UNCRC reflect guarantees established for “everyone” in the International Covenants or other instruments, underlining that these rights apply equally to children. However, many other provisions in the UNCRC, including the following, provide unique rights for children:

- Best interests of the child to be a primary consideration in all actions concerning children
- Obligation to give due weight to children’s expressed views in all matters affecting the child; also, to provide the opportunity for the child to be heard in judicial or administrative proceedings
- Obligation to ensure maximum survival and development of the child
- Institutions and services etc. for care and protection of children to conform to established standards
- Right of the child to know and be cared for by parents
- Preservation of the child’s identity
- Right not to be separated from parents unless in best interest with judicial review
- Obligations to prevent abduction and non-return of children abroad
- Detailed aims defined for the education of the child
- Specific protection from sexual exploitation and abuse including child pornography
- Obligation to ensure the child’s access to information and material from a diversity of national and international sources
- Right to protection from “all forms of physical or mental violence”
- Prohibition of life imprisonment of children without the possibility of release; arrest, detention or imprisonment of the child only as a last resort and for the shortest appropriate period
- Specific limitations on recruitment and involvement of children in armed conflict
- Right of access of the child to health-care services and obligations to take specific measures for health as well as protection from traditional practices prejudicial to health
- Distinct aims for juvenile justice systems and rights of children involved.

The first two Optional Protocols to the UNCRC add further unique rights and safeguards.

The OPIC is also the only international communications procedure to provide child-sensitive procedures, making it effectively accessible to children and their representatives. Above, we've mentioned the General principles guiding the functioning of the Committee. Further, if the victim is still a child at the time of filing the complaint, a number of additional rules apply on how to respect the best interests of the child and have regard to the rights and views of the child in accordance with the age and maturity of the child, and on how to make the procedure as child-friendly as an international procedure can be. These rules can be found in the Committee's [Rules of procedure under the OPIC](#). For example, Rule 1.2 compels the Committee to take all appropriate measures to ensure that children are not subject to improper pressure or inducement by those acting on her/his/their behalf. When a communication is brought to the Committee on behalf of a child or a group of children without evidence of the children's consent, the Committee can even decide not to examine it if it considers it is not in the best interest of the child. (Rule 20.4)

Two relevant principles key to ensuring child-sensitive procedures in the OPIC are the principle of expeditiousness and the principle of information. According to the first principle, the Committee is required to handle communications expeditiously and to avoid unnecessary delays, which is key to ensuring justice for children (Rule 2). According to the second

principle, information has to be provided throughout the proceedings in an appropriate and accessible format for adults and children alike and adapted, to the extent possible, to the age and maturity of the author(s) (Rule 14). This principle must also be respected when a request for additional information is made (Rule 15.3). Furthermore, according to Rule 27.1, the principle of information also has to be ensured for the decisions adopted by the Committee. Indeed, the decisions must be written in accessible language and adapted, to the extent possible, to the age and maturity of the alleged victim(s).

It is also worth mentioning that the Committee has specific [Working methods to deal with individual communications](#) submitted by children under the OPIC. The Committee encourages children's submissions, giving communications submitted by them every opportunity to prosper. It also tries to respond to every child in a child-friendly letter as soon as possible and in less than two weeks.



In brief

By ratifying the OPIC, States allow children to effectively access a unique redress mechanism that covers the full range of their rights and ensures child-sensitive procedures.

New opportunities of interaction with the Committee on the Rights of the Child

When making recommendations to States parties to the UNCRC and/or its Optional Protocols during their review, the Committee plays an active role encouraging non-States parties to the OPIC to ratify the instrument.

Given that the cooperation between the Committee and States is an essential component of the OPIC implementation, the instrument creates new opportunities of interaction between States and the Committee. Indeed, States parties to the OPIC can be in contact with the Committee on a more regular and informal basis, as opposed to what has been seen in the Committee's reporting procedure.

The OPIC is complementary to States' review by the Committee through its reporting procedure. In the latter, following the examination of initial reports, States parties to the UNCRC and/or its first two Optional Protocols, only report to the Committee every five years. Further, in the reporting procedure the Committee reviews progress on implementing the full range of rights under the UNCRC and/or its first two Optional Protocols. However, under the communications and inquiry procedures envisaged in the OPIC, a *focused* review of particular legislation, policy or practice causing, or potentially causing, violations is required. Thus, the OPIC enables the Committee to provide illuminating Views and recommendations interpreting the obligations of the UNCRC and its Optional Protocols, which can have far-reaching effects, as we've seen above.

The contact with the Committee does not end with an adopted decision or the publication of an inquiry report under the OPIC. Indeed, the Committee monitors the follow-up of its adopted Views and recommendations by requesting States to submit a written response including information on any action taken to implement the Views and its recommendations. Regular communication and strong cooperation between the Committee and States parties to the OPIC allow for the Committee to advise and provide technical assistance in the national implementation of child rights, thanks to the OPIC.



In brief

The OPIC complements the Committee's reporting procedure, allowing for a focused review of the particular legislation, policy or practice causing, or potentially causing, violations. Interaction with the Committee can be enhanced as the Committee assists States in implementing the OPIC and child rights at the national level.



The strengthening of the national framework for the promotion and protection of child rights, thanks to the OPIC

A better implementation of child rights and addressing issues of concern at the national level

The communications procedure established under the OPIC is meant to complement and not replace national remedies if violations cannot be addressed effectively at a national level. Generally, the Committee cannot review complaints if domestic remedies have not been exhausted.

When children or their representatives do however reach out to the Committee through the OPIC, national frameworks for the promotion and protection of child rights have an opportunity to be strengthened. Through the implementation of the OPIC and the development of international case law, States can gradually gain a better understanding of the meaning and scope of the rights contained in the UNCRC, OPSC and OPAC. The fact that States better understand their obligation to protect, respect and fulfil the rights of children helps the incorporation and effective implementation of child rights at the national level. Particularly, thanks to its jurisprudence, the Committee can provide more light on the application of the best interests of the child, how it should be considered and how it should be interpreted in conjunction with other rights of the child. For example, in *C.E v. Belgium*, the Committee stressed the need for the best interest of the child and the ties of the child with its guardians to be considered in family reunification procedures. National tribunals and institutions dealing with child rights complaints can base their decisions on the interpretation of child rights given by the Committee, thus rendering decisions in better compliance with the applicable international child rights standards envisaged in the UNCRC, the OPAC and the OPSC (either by applying those standards directly or by interpreting their national law in accordance with those standards).

Through its adopted Views and inquiry reports, the Committee can also provide recommendations on how to remedy child rights violations, including how similar violations can be prevented and how the revictimization of the child victims can be avoided. This guidance is key in assisting States parties in the strengthening of a national framework for the promotion and protection of the rights of the child. For instance, in several cases against Spain, the Committee has enumerated several measures needed to prevent any future violations in the context of protecting unaccompanied asylum-seeking children⁹. It has, for example, recommended the State to: "Develop an effective and accessible redress mechanism that allows young unaccompanied migrants claiming to be under 18 years of age to apply for a review of any decrees declaring them to be adults issued by the authorities in cases where the age assessment procedure was conducted in the absence of the safeguards necessary to protect the best interests of the child and the right of the child to be heard"¹⁰; and to:

⁹ *R.K v. Spain*, CRC/C/82/D/27/2017, para 10.b, c, d; , *M.T. v. Spain*, CRC/C/82/D/17/2017, para 14. b, c, d; *A.D. v Spain*, CRC/C/83/D/21/2017, para 11. b, c, d; *M.A.B v. Spain*, CRC/C/83/D/24/2017, para 11. b, c, d; *H.B. v. Spain*, CRC/C/83/D/25/2017, para 11. b, c, d.

¹⁰ *Idem* para 10 c; *Idem*, para 14. c; *Idem*, para 11 c; *Idem*, para 11 c; *Idem* para 11 c.

“Provide training to immigration officers, police officers, officials of the Public Prosecution Service, judges and other relevant professionals on the rights of migrant children and, in particular, on the Committee’s general comments Nos. 6, 22 and 23”¹¹. In order to provide for a smooth national implementation of the OPIC, some adjustments might have to be made at the national level.¹² However, and as previously mentioned, the Committee can advise and provide technical assistance to States parties throughout the process. This regular dialogue and cooperation between States parties with the Committee will be key to ensuring successful implementation of the Committee’s Views and recommendations for the improvement of child rights at the national level.

The use of the mechanisms provided by the OPIC can assist States in identifying internal issues of concern, helping them take concrete action to address them, thus strengthening child rights at the national level. In this regard, for example, the use of the OPIC individual communications procedure in Spain was crucial to raise awareness on the problems regarding the procedure of age assessment of unaccompanied migrant children and the need for it to be amended.

National frameworks for the promotion and protection of child rights can be directly strengthened by the national implementation of the OPIC thanks to the Committee’s adopted Views and recommendations, or even just by bringing an issue or a case to the Committee’s attention. In the case of *A.H.A et al v. Denmark*, which was discontinued by the Committee, the latter applauded Denmark’s decision to grant asylum to the mother of the victims allowing them to be reunited.¹³ In this case, the Danish government’s ruling was a direct response to the complaint submitted to the Committee. The latter commended Denmark for putting the best interests of the children first and said that Denmark had set a benchmark to show how the OPIC complaints mechanism could efficiently remedy violations of children’s rights.

Regardless of whether they are taken up by the Committee or not, issues brought to its attention under the OPIC provide an opportunity to promote internal discussions on children’s rights, which can intersect and touch upon different competencies (both institutionally and in terms of substance). For instance, while the request for an inquiry procedure in Belgium was not taken up by the Committee, it provided the opportunity to have an internal intergovernmental/inter-ministerial debate on the issue of street-connected children, especially children of Roma origin, resulting in concrete measures taken by the Government to improve the situation. Further, the only case in which the Committee adopted Views concerning Belgium¹⁴ led to the adoption of individual, as well as structural, measures in the country. In October 2019, the Committee commended Belgium for full compliance with its recommendations.¹⁵

11 Idem para 10 d; Idem, para 14. d; Idem, para 11 d; Idem, para 11 d; Idem para 11 d.

12 Child Rights Connect, *Key Finding of the Roundtable Discussion: “Towards Better Implementation of the UN CRC through its Third Optional Protocol on a Communications Procedure”*, August 2019, pages 8-11.

13 CRC press release, *UN Committee welcomes Danish asylum for Syrian mother of six*, 8 April 2020.

14 *C.E v. Belgium*, CRC/C/79/D/12/2017.

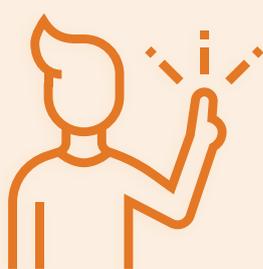
15 CRC press release, *UN Committee welcomes Belgium’s resolution of child visa case and rectification of process*, 4 October 2019.

An opportunity to strengthen national institutions for the protection of child rights and child complaint mechanisms

The implementation of the OPIC at the national level also offers the possibility to empower and strengthen national institutions, including NHRIs, and to improve processes for the promotion and protection of child rights. In January 2018, members of the Committee visited Chile in the context of an inquiry, which concluded that grave and systematic violations of children's rights had occurred in the last 40 years in the context of alternative care. As a consequence of the procedure and the Committee's recommendations, Chile established its first Children's Ombudsperson who, among other things, monitors Chile's compliance with the Committee's recommendations regarding the protection of children in alternative care. The institution is also crucial to ensure the general promotion and protection of children in the country.

In the framework of OPIC, the Committee engages with national institutions such as NHRIs and Children's Ombudspersons. Particularly, the channel of communication between them enables an effective assessment and development of relevant Views by the Committee based on first-hand information of the reality faced by children on the ground.

The OPIC also has the potential to positively influence and consolidate national child complaint mechanisms. As we've seen, the instrument is the only international communications procedure considering the special status of children and providing for child sensitive procedures. Thus, in a way, the instrument sets a standard model that could be considered by other child complaint mechanisms at the national level, including NHRIs and Children's Ombudspersons, to ensure effective access of children to justice. Further, providing or improving existing child-sensitive procedures in complaint mechanisms at the national level strengthens national systems of protection.



In brief

States parties to the OPIC have an opportunity to strengthen their national framework for the promotion and protection of child rights. Indeed, on the one hand, the jurisprudence and recommendations made by the Committee in its adopted Views and inquiry reports can help States better understand their obligations under the UNCRC and its Optional Protocols, providing for better implementation of child rights at the national level. Then as child rights issues of national concern are brought to the attention of States through the OPIC, this provides an opportunity to address them with the guidance and technical assistance of the Committee. Finally, the OPIC provides an opportunity to strengthen national institutions for the protection of child rights and child complaint mechanisms, consolidating effective access to justice for children.



Complementarity with regional human rights mechanisms

The OPIC complements regional human rights systems with its unique scope and child-sensitive procedures. Under the Inter-American and the European human rights systems, it would not be possible to allege violations of the wide range and unique children's rights covered by the UNCRC, the OPSC and the OPAC. Nor would child-sensitive procedures be available to children. The judges sitting in each regional Court and the bodies reviewing the complaints are not necessarily child rights experts, guided by the best interests of the child and having regard to the child's views.

The African human rights system does have a child specific treaty (the African Charter on the Rights and Welfare of the Child (ACRWC)) covering a wide range of child rights, as well as a group of child rights experts reviewing the complaints received. It also has specific child-sensitive procedures. Yet the OPIC still offers important complementarity with this regional child-specific mechanism.

1. The African Human Rights Systems

The African Union has established a robust legislative framework for the promotion and protection of children. It is the only regional system that has a separate child rights instrument. The **African Charter on Human and Peoples Rights**, which entered into force in 1986, is the basis for the African human rights system. As of April 2020, the African Charter has 54 ratifications out of a total of 55 African Union Member States (98% ratification). The African human rights system includes the ACRWC, which entered into force in 1999 and which has been ratified by 49 States parties to the African Union (89% of total).¹⁶

The ACRWC envisages a communication procedure under Article 44 and has a specific Committee, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), which is competent to deal with these communications. The ACERWC is formed by 11 independent experts elected by the Assembly of Heads of State of the African Union. In 2005, it received its first communication, six years after entering into force. The individual communications procedures envisaged in the ACRWC is automatically binding when ratifying the Convention. From the 49 States parties to the ACRWC, only Egypt has not recognised the competence of the African Committee on the Rights and Welfare of the Child to receive communications by making a reservation.

Regarding the OPIC, two main differences exist: through article 44 of the ACRWC and article 1 section II of its Guidelines for the Consideration of Communications, the regional instrument¹⁷ allows for collective complaints and can find communications from non-State Parties to the ACRWC admissible in the overall best interest of the child.

¹⁶ Check which African Union member States have ratified the ACRWC

¹⁷ Guidelines for the Consideration of Communications Provided for in Article 44 of the African Charter on the Rights and Welfare of the Child, ACERWC/8/4.

Regarding the substantive rights, the UNCRC and the ACRWC both share the key principles of non-discrimination, the best interests of the child, children's participation and the survival and development of the child.¹⁸ However, the synergy that exists between the two instruments is that of complementarity. On the one hand, the ACRWC is more explicit about certain issues relevant in Africa which are not necessarily developed in the UNCRC and its two first Optional Protocols.

For instance, the ACRWC explicitly refers to the prohibition of child marriage (article 22), the protection against harmful traditional practices (article 21) and the protection of the girl child in the education context (article 11(3)). In article 22, the ACRWC also seems to offer a higher standard than the OPAC concerning the voluntary recruitment of children between the ages of 16-18.¹⁹ Indeed, the ACRWC does not allow recruitment for any child under 18.

On the other hand, the UNCRC devotes specific articles to juvenile justice (articles 37 and 40) and the recognition of the rights of the child as a victim (article 39), which are not included in the ACRWC. Additionally, the OPIC can address violations of the UNCRC and its two first Optional Protocols, which have a different scope and content than the ACRWC. For example, the treaty subject matter of the OPIC, in contrast to that of the ACRWC, includes the protection of children from life imprisonment without the possibility of release, the express inclusion of disability as a prohibited ground of discrimination, the specific provision of rights of minority children and specific provisions regarding the demobilisation, internal rehabilitation and social reintegration of children involved in armed conflict.

Another interesting difference between the ACRWC and the OPIC is the fact that the OPIC entails a follow-up procedure to the Committee's adopted Views and recommendations in its articles 11 and 14. Indeed, under article 11, after the Committee adopts a decision on the merits ("adopts Views"), the State party is required to provide a written response to the Committee as soon as possible and within six months. This response should include information on any action taken and envisaged in the light of the views and recommendations of the Committee. Under article 14 of the OPIC, the Committee can invite the State party concerned to inform it of the measures taken and envisaged in response to an inquiry conducted. The Committee regularly monitors the efforts of States to comply with its adopted Views and recommendations. Further, under articles 11 and 14, the Committee can also invite the State party to provide additional information ahead of its next review by the Committee. This follow-up is key to ensuring proper implementation of child rights at the national level.

Given the complementarity of the ACRWC and the OPIC, the ratification of the OPIC can only contribute to the realisation of child rights in the region. Indeed, first, the OPIC allows the Committee to address potential violations of rights and issues of concern which are not necessarily provided for in the ACRWC (e.g. juvenile justice, the recognition of the rights of the child as a victim). Then, the follow-up system envisaged by the OPIC, in conjunction with

¹⁸ Osifunke Ekundayo, 'Does the African Charter on the Rights and Welfare of the Child (ACRWC) Only Underlines and Repeats the Convention on the Rights of the Child (CRC)'s Provisions? Examining the Similarities and the Differences between the ACRWC and the CRC' (2015) 5 International Journal of Humanities and Social Science 143, p.156.

¹⁹ Ibid p. 21

the technical assistance the Committee can offer during informal and regular exchanges with States parties, helps ensure proper implementation of the Committee's adopted Views and recommendations by States.

For those States who have accepted both procedures, the international nature of OPIC may put additional pressure on the State to implement changes, following the Committee's adopted Views and recommendations.

2. The Inter-American Human Rights System

The Organisation of American States (OAS) was created in 1948 with the signing in Bogotá, Colombia, of the Charter of the OAS, which entered into force in 1951. As of April 2020, the OAS has 35 State Parties. One of the fundamental pillars of the OAS is the protection and promotion of human rights.

The American Declaration of the Rights and Duties of Man of 1948 is the basis for the Inter-American human rights system. In 1959, the Inter-American Commission on Human Rights (IACHR) was formally created; however, its functions were codified in 1969 with the adoption of the **American Convention on Human Rights** that entered into force in 1978. The IACHR is a principal and autonomous organ of the OAS whose mission is to promote and protect human rights in the American hemisphere. At the same time of codifying the functions of the Commission the Convention created the Inter-American Court of Human Rights. Up to April 2020, the American Convention on Human Rights had 23 State Parties (65%) of the 35 State Parties of the OAS. Only 20 States (57%) of the 35 State Parties of the OAS have recognised the jurisdiction of the Inter-American Human Rights Court.

Another important Inter-American human rights instrument is the Additional Protocol in the area of Economic, Social and Cultural Rights (or "Protocol of San Salvador"), which entered into force in 1969. The Protocol of San Salvador has only 16 States Parties (45%) out of the 35 Members of the OAS.

Different from the American Convention on Human Rights and its Protocol of San Salvador, the OPIC procedures are specifically designed to address the rights of the child, as defined under the UNCRC, the OPSC and the OPAC.

Although the American Convention contains a specific article on the rights of the child (Article 19), which helps the Inter-American Commission and the Inter-American Court to further interpret the Convention from a children's rights perspective, it does not cover all the rights included in the UNCRC, the OPSC and the OPAC. Nor does the Inter-American human rights system have child-sensitive procedures allowing children to effectively access these mechanisms.

Further, it is important to recall, as mentioned above, that not all member States of the OAS

have ratified or acceded to the American Convention on Human Rights²⁰ or the Protocol of San Salvador.²¹ In other words, these States have not accepted the competence of the Inter-American Commission on Human Rights to receive individual complaints and/or have not accepted its competence to receive complaints alleging the violation of economic, social or cultural rights. In contrast, all member States of the OAS – with the exception of the United States of America – have ratified or acceded to the UNCRC.²² Thus, if these States were to ratify or accede to the OPIC, this would in fact be the only procedure available to address violations of children’s rights at the supranational level.

As we have seen, the Inter-American human rights instruments do not cover, separately or together, the full range and detail of rights for children set out in the UNCRC, OPSC and the OPAC. The system does not have a child-specific treaty such as the ACRWC in the African human rights systems. Further, the Inter-American human rights system also does not have child-sensitive procedures as those envisaged in the OPIC. In this sense, ratifying the OPIC allows OAS member States to ensure children can effectively access justice and ensure accountability for child rights violations. Further, the fact that almost all OAS member States have ratified the UNCRC makes the OPIC a very solid instrument to ensure child rights in the region.

3. The European Human Rights System

The Council of Europe was created in 1949 and has 47 member States. In 1953 the European Court of Human Rights and the European Commission of Human Rights were created by the **European Convention on Human Rights** (formally the Convention for the Protection of Human Rights and Fundamental Freedoms). These two bodies were merged into a single human rights system in 1998 under Protocol No. 11, which abolished the Commission. The 47 Member States (100%) of the Council of Europe are party to the European Convention on Human Rights (ECHR). The ECHR has only two articles explicitly referring to children; “article 5 provides for the detention of a minor ‘for the purposes of educational supervision and to bring a minor before the competent legal authority’; and article 6 places limits to the right to a public hearing ‘where the interests of juveniles so require.’”

Additionally, the European Social Charter entered into force in 1961. The Charter has 27 State Parties (57%) out of the 47 Member States of the Council of Europe. The Charter guarantees fundamental social and economic rights as a counterpart to the European Convention on Human Rights, which refers to civil and political rights. Specifically, it contains two provisions relating specifically to children: Article 7, which protects children against economic exploitation, and Article 17, which deals with children’s rights to care, assistance, education and protection from violence. The Charter does not have a Court, rather the European Committee on Social Rights which only receives collective complaints. Additionally, this European Committee is limited to receiving collective complaints presented by international organisations of employers and trade unions referred to in Article 27 of the Charter; other international non-governmental

²⁰ Check which OAS Member States have not ratified the ACHR

²¹ Check which OAS Member States have not ratified the Protocol of San Salvador

²² Check which OAS Member States have also ratified OPSC; Check which ones have also ratified OPAC

organisations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee; or representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint.

The OPIC is a communications procedure specifically designed to address the rights of the child, as defined under the UNCRC, the OPSC and the OPAC. Except for the specific articles mentioned above, the European Convention on Human Rights and the European Social Charter do not include a specific children's rights perspective. Nor do they contemplate child-sensitive procedures facilitating access to justice for children. Further, it is only possible to submit individual communications to the European Court of Human Rights for alleged violations of *civil and political rights*. Indeed, alleged violations of economic and social rights could only be presented as a collective complaint to the European Committee on Social Rights, and by a limited number of organisations, which do not include children. Ratifying the OPIC, complements the regional human rights instrument, allowing for States members of the Council of Europe to ensure children can effectively access justice and ensure accountability for child rights violations.

Key reasons to ratify the OPIC

Access to justice and accountability for rights violations



Complementarity with universal & regional human rights mechanisms



- Children as rights-holders
- Covers the full range of children's rights
- Provides child sensitive procedures
- Complaints reviewed by child experts

Strengthening of the national framework for the promotion and protection of child rights



- Better implementation of child rights at the national level
- Opportunity to address child right issues of concern at national level

New opportunities of interaction with the Committee



- More regular and informal interaction
- It provides illuminating views and recommendations on concrete situations
- Follow-up mechanisms and technical assistance

How to become a State party to the OPIC

On 19 December 2011, the General Assembly of the UN adopted the text of the OPIC in [resolution 66/138](#).²³ Since February 2012 the OPIC has been open for signature and ratification.

In order to become a State party to any legal international instrument, including the OPIC, a State must demonstrate, through a concrete act, its willingness to be legally bound by it. States may either: (a) sign and ratify the OPIC or (b) accede to it. Both procedures have the same legal effect. However, the process to be followed will be determined by the national law of each country, generally established in its Constitution.



Signature, ratification and accession

Signature and ratification

Signature

A State must first sign the OPIC if its national law says that international treaties need to be ratified to be legally binding. This signature is the first of a two-step process towards ratification.

The signature shows the State's political commitment to the treaty and indicates the State's intention to become a party. By signing, the State agrees that it will not do anything inconsistent with the object and purpose of the treaty. However, at this stage, the State is not yet legally bound by the treaty. This means that individuals in the State cannot submit communications or information on violations of children's rights to the Committee. A signature of the OPIC does not legally bind the State to the treaty, unlike ratification or accession.

The process for a State to sign a treaty is shorter than that for ratification or accession. A high-level State representative can sign at any time at the UN headquarters in New York.

Ratification

When a State ratifies the OPIC, it is confirming the intention expressed by signing the treaty and accepting to be legally bound by it.

²³ Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Resolution adopted by the General Assembly on 19 December 2011, [A/RES/66/138](#).

Ratification happens once the State has signed the treaty and deposited the instrument of ratification with the Secretary-General at the UN Headquarters in New York.

It is worth noting that ratification can only happen at the UN, even if it has been approved at the national level - for example, by the national Parliament. Until the State deposits the instrument of ratification at the UN, the State has not officially ratified it and the OPIC does not apply. This is why it is important to remind the State to complete the ratification process at the UN as soon as it has been completed at the national level. Ratification can be done at any time after signature at the UN headquarters in New York.

Although signature and ratification are usually a two-step process, States can also sign and ratify a treaty at the same time. For example, Thailand signed and ratified the OPIC on 25 September 2012.

Accession

Accession to the OPIC is a one-step process and has the same effect as ratification. It is done by depositing an instrument of accession directly with the Secretary-General of the UN. As with ratification, accession only happens once the process is completed at the UN, even if the decision to accede has already been made at the national level. Accession can be done at any time at the UN headquarters in New York.



Who can sign, ratify or accede to the OPIC?

Under established international practice, only Heads of State, Heads of Government or Ministers for Foreign Affairs are empowered by virtue of their functions to sign, ratify or accede to treaties on behalf of States, without having to produce full powers to that effect.

Other representatives, such as the Ambassador of the State's mission before the UN in New York, can sign, ratify or accede if they are in possession of the appropriate full powers emanating from one of the above-mentioned authorities.²⁴

²⁴ More information on full powers can be found in the [Treaty Handbook on the United Nations Treaty Collection website](#)



Reservations, declarations and applicability *ratione materiae*, *temporis* and *loci*

Reservations and declarations

A reservation is a unilateral statement, however phrased or named, made by a State when signing, ratifying, or acceding to a treaty, whereby it purports to exclude or to modify the legal effect of certain provisions of the treaty in their application to that State.²⁵ A State may formulate a reservation unless: (a) the reservation is prohibited by the treaty; (b) the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or (c) for cases not falling under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.²⁶

The text of the OPIC does not give any guidance on reservations, therefore it is technically possible for States to make reservations. However, based on article 19 (c) of the Vienna Convention on the Law of Treaties and the [General Comment 24 of the Human Rights Committee](#) on reservations, it is possible to infer that any reservation against the object and purpose of the OPIC would be deemed invalid by the Committee on the Rights of the Child.²⁷ In its General Comment, the Human Rights Committee analysed the possibility to make reservations to the First Optional Protocol to the International Covenant on Civil and Political Rights. The latter grants competence to the Committee to receive and consider individual communications, similar in nature to the OPIC. The Human Rights Committee explained that: “because the object and purpose of the first Optional Protocol is to allow the rights obligatory for a State under the Covenant to be tested before the Committee, a reservation that seeks to preclude this would be contrary to the object and purpose of the first Optional Protocol, even if not of the Covenant.”²⁸ Drawing from this analogy, a reservation made under the OPIC would not allow for the rights under the UNCRC and its first Optional Protocols to be tested before the Committee on the Rights of the Child. Thus, a reservation under the OPIC would be contrary to its object and purpose.

The inability to make reservations to the OPIC explains why some of its mechanisms, namely the inquiry procedure and the inter-State communications procedure, are optional. This means that States parties are allowed to opt in or opt out of these mechanisms through a declaration, which is not considered a reservation to the OPIC. These declarations are envisaged in article 12 as an opt-in for inter-State communications and in article 13 as an opt-out to the inquiry procedure.

The declaration regarding article 12 – accepting the competence of the Committee for inter-States communications – can be done at any time and the Secretary-General of the UN must

²⁵ [Vienna Convention on the Law of Treaties 1969](#), done at Vienna on 23 May 1969. Entered into force on 27 January 1980. United Nations, Treaty Series, vol. 1155, p. 331, article 1(d)

²⁶ *Ibid.*, article 19

²⁷ [General Comment No. 24 \(52\) 1/ \(1994\)](#): General comment on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations (article 41), CCPR/C/21/Rev.1/Add.6, para 14.

²⁸ *Ibid.*, para 13.

be notified. The declaration regarding article 13 – opting out from the inquiry procedure – can be done at the time of signature or ratification of the present Protocol or accession thereto, and the Secretary-General of the UN must be notified.

Applicability *rationae materiae, temporis and loci*

The applicability *rationae materiae, temporis* and *loci* of a treaty refer to what the treaty covers, from when it starts applying and where it applies respectively. In this sense, it is important to clarify the *rationae materiae* of the OPIC, i.e. what does it cover? The *rationae temporis*, i.e., from when does it start to apply to a State Party? And the *rationae loci*, i.e., where does the treaty apply? And what happens with its application in Federal States?

Applicability *rationae materiae*

Once the OPIC is applicable in a State, it can only cover violations of a right included in the UNCRC and/or the OPSC and/or the OPAC, which has to have been accepted by the State party in question.

The OPIC only applies to obligations previously accepted by the State party under the UNCRC and/or the OPSC and/or the OPAC. Thus, it cannot apply to violations of rights that are the subject of a reservation by the State party concerned.

Existing reservations to the UNCRC, the OPSC or the OPAC are valid under the OPIC. The only possible exception would be if the Committee decides that the reservation itself is contrary to international law and thus that it is not valid.

Applicability *rationae temporis*

The ratification or accession to the OPIC by a State does not mean that the OPIC is instantly applicable. Under article 19 of the OPIC, two elements should be considered for establishing when the OPIC becomes applicable for a State party:

1. For the ten first States parties,²⁹ the OPIC is applicable from the date of the treaty's entry into force, which was three months after the 10th State ratified or acceded to the OPIC, thus on **14 April 2014**.³⁰ The OPIC is applicable from that date for: Albania, Bolivia, Costa Rica, Gabon, Germany, Montenegro, Portugal, Slovakia, Spain and Thailand.
2. For the eleventh and all future States parties, the OPIC is applicable three months after States ratify or accede to the OPIC ³¹. For example, Benin ratified the OPIC on 19 August 2019. Thus, for this country, the OPIC entered into force and became applicable on 19 November 2019.

²⁹ Albania, Bolivia, Costa Rica, Gabon, Germany, Montenegro, Portugal, Slovakia, Spain, and Thailand.

³⁰ According to Article 19.1 of the OPIC, the Protocol could only enter into force "three months after the deposit of the tenth instrument of ratification or accession". Costa Rica was the 10th State to ratify the OPIC on 14 January 2014.

³¹ See Article 19.2 of the OPIC which provides: "For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession".

It should also be noted that, according to article 20 of the OPIC, the Committee has competence solely with respect of violations by the State party of any of the rights in the UNCRC and/or the OPSC and/or the OPAC that occurred after the entry into force of the OPIC for the State party concerned.

To check the dates of States parties' ratification of, or accession to, the OPIC, you can visit the [United Nations Treaties Collection](#).

Applicability *rationae loci*

As a general rule, a treaty will only apply within the territory and subject to the jurisdiction of the State Party³², unless the treaty provides otherwise. The OPIC applies to violations that occurred within the jurisdiction of the acceding or ratifying State.³³ However, there are developments in international law regarding extra-territorial jurisdiction³⁴ and the Committee has not yet provided any jurisprudence on this matter.

However, a common doubt emerges with regards to who is accountable under the OPIC in federal States. The OPIC, as any other international treaty, can only be ratified or acceded to by a "State" as defined under international law, i.e. the federal State, where this is the case. Since this is the entity that bound itself to the obligations provided by the UNCRC and/or OPSC and/or OPAC, any procedure established under the OPIC can only be used against that "State".

Thus, communications or inquiry requests cannot be submitted against sub-federal governments, only against the federal State. Complainants of individual communications may, however, be required to submit complaints against sub-federal governments as part of the exhaustion of domestic remedies before they can challenge the federal State at the international level.

It is also the federal State that will be expected to respond to the Committee and submit observations, clarifications and written explanations within the timelines set out in the OPIC. ("as soon as possible and within six months"³⁵).

Federal States should, therefore, put internal coordination systems in place to ensure smooth, quick and efficient communication and information exchange with sub-national entities. This can be done through a coordinating body under the Ministry of Justice, for example.

³² International Covenant for Civil and Political Rights, article 2; . UNCRC, article 2 does not expressly mention the word territory – it provides that 'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction'.

³³ UNCRC, article 2; OPIC article 5

³⁴ See, for example ECtHR, *Ilascu & others v. Moldova and Russia*, [GC], n°48787/99, 8 July 2004; HRCc, *Sergio Euben Lopez Burgos v. Uruguay*, Communication No. R.12/52, U.N. Doc. Supp. No. 40 (A/36/40) at 176 (1981); IACtHR, *Environment and human rights (state obligations in relation to the environment in the framework of the protection and guarantee of the rights to life and personal integrity - interpretation and scope of articles 4.1 and 5.1, in relation to articles 1.1 and 2 of the American Convention on Human Rights)*. Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23.

³⁵ For the exact timelines, see Articles 8.2, 11.1 and 13.5 OPIC and Rules 2, 18.3, 18.4, 28.1, 41.3 of the Committee's Rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, [CRC/C/62/3](#).



Summary of steps needed for the ratification or accession of the OPIC ³⁶

Decision by the national government

At the national level, there may be specific procedures a State is required to undertake, prior to becoming party to an international agreement. For some countries, parliamentary authority is required to become party to international treaties; for others, only executive authority is needed. Irrespective of the domestic procedures, before a State formally agrees to become party to a treaty, it is generally recommended that State authorities discuss the obligations widely before ratification or accession, so that all the treaty's requirements are fully understood. The discussions, exchange of information and advocacy work carried out by CSOs, NHRIs and Children's Ombudspersons, among others, will be of considerable value to advance the ratification or accession of the OPIC, as well as to help promote a better understanding of the OPIC among government officials and society in general. This will be elaborated on in the next section.

Determine if any declarations are needed

As part of any relevant domestic process, the Government should determine whether any declarations need to be made with submission of the instrument of ratification or accession. For example, a Government can submit a declaration at the time of ratification or accession to exercise the opt-in option for article 12 and the opt-out option for article 13 of the OPIC.

Prepare and sign instrument(s)

Following the completion of any necessary domestic procedures, the relevant Government office will prepare the instrument of ratification or accession and any declaration. In the practice of many countries, this responsibility belongs to the Ministry of Foreign Affairs. The Head of State, Head of Government or Minister for Foreign Affairs will then sign and date the instrument(s).

Delivery to the Secretary-General through the UN Treaty Section in New York.

After domestic procedures have been followed and the decision to be bound by the treaty taken, a State must formally deposit the instrument of ratification or accession. Ratification or accession to the treaty becomes effective only when it is deposited with the Secretary-General of the United Nations at the Headquarters in New York.³⁷ The date of deposit is normally recorded as that on which the instrument is received at Headquarters.

(see flowchart on the [following page](#))

³⁶ Timeline taken from [UNCAT Ratification Tool, Templates on Ratification, Accession, Reservations and Declarations to UNCAT](#)

³⁷ Treaty Section, Office of Legal Affairs, United Nations Headquarters, New York, United States of America.

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The discussions, information exchange and advocacy work carried out by CSOs, NHRIs and Children's Ombudspersons, among others, will be of considerable value to advance the ratification or accession of the OPIC, as well as to help promote a better understanding of the OPIC among government officials and society in general.

National case studies and strategies for ratification



Ratification experiences of States

Nine years since the adoption of the OPIC in December 2011, and six since its entry into force in April 2014, 46 States have ratified the instrument, and 18 have signed but have yet to ratify it. Experiences of ratifications and challenges encountered along the way vary across countries and regions.

During the [April 2019 Roundtable Discussion](#), States shared their ratifications experiences of the OPIC. Among the main findings was the fact that, as ratification of international instruments is dependent on political contexts and priorities, timing is important. Some States that were involved in the drafting and adoption process of the OPIC ratified the instrument very quickly without facing major challenges, such as Thailand in 2012 and Slovakia in 2013. However, other States that were equally supporting the drafting process experienced delays in ratifying it due to a shift in their domestic political agenda that deprioritised the ratification of the instrument. For instance, Slovenia ratified the OPIC in 2018, although it had signed it in 2012.

Another major finding was that States can be persuaded to ratify provided that the instrument is supported by key stakeholders such as civil society, including children, Ombudspersons, parliamentarians, public officials and the media. In Slovenia, the awareness raising and advocacy by public officials, civil society and the media, all of whom saw in the instrument an opportunity to strengthen the national judicial system, were key to advance the ratification process of the OPIC. Further, in some States where Governments were initially reluctant to ratify the OPIC, the Parliament played a key role in cooperation with civil society. Indeed, Switzerland was able to ratify the instrument in 2017 after having passed a motion known as “Amherd” and organizing an expert meeting on the justiciability of economic, social and cultural rights, which was the main concern of the Governments relating to the OPIC. The Amherd motion claimed that, as the host country of the HRC, OHCHR and the Committee, Switzerland should take the OPIC seriously and start the ratification process as soon as possible “for the sake of credibility of its human rights policy”, among others. This is a positive example of a Parliament overcoming the lack of government enthusiasm to ratify OPIC by promoting expert and multi-stakeholder debates.

The Roundtable Discussion also revealed that some States are remaining attentive to the evolving jurisprudence of the Committee on the OPIC in order to better assess the impact of the Committee’s recommendations on their obligations, before moving forward with ratification. For others, being a State party to the OPIC allows for States to play an active role in shaping the Committee’s jurisprudence.

States that become a party to the OPIC show their willingness to protect and promote children's rights at the international level, and lead by example to encourage other States to do the same. If the OPIC is to make a real difference in children's lives, it needs to enjoy universal ratification, like the UNCRC.

As States across the world share similar concerns when it comes to ratifying the OPIC, the Roundtable Discussion confirmed that is essential to create spaces for States to exchange experiences. As civil society may similarly share concerns or challenges in advocating for the ratification of OPIC, it will be important to also share advocacy experiences among civil society. Our next section shares concrete case studies of advocacy work being carried out by national civil society organisations and children for the ratification of the OPIC.

Advocacy work for OPIC ratification led by civil society organisations and children

Nepal

Broadening support for OPIC ratification through the media

In 2016, the Committee on the Rights of the Child reviewed Nepal, where it recommended the State to ratify the OPIC³⁸ and to consider establishing a specific mechanism or section within the National Human Rights Commission that is able to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring, follow-up and verification activities for victims.³⁹ Nepal will present its next report to the Committee in October 2021.



[Child Nepal \(CN\)](#), based in Kathmandu, Nepal, is a child rights NGO working on child rights, with a particular focus on child protection and child development. It was established in 2003 by a group of social activists with an aim to initiate a child-friendly culture. In 2017, CN formed the "Ratify OP3CRC⁴⁰ Coalition Nepal", regrouping more than 30 CSOs⁴¹, who lobby and advocate for the ratification of the OPIC by the State of Nepal. The coalition sees Nepal's

³⁸ Concluding observations on the combined third to fifth periodic reports of Nepal, Committee on the Rights of the Child, CRC/C/NP/L/CO/3-5, 8 July 2016, para 73

³⁹ Ibid, para 16

⁴⁰ Before the Committee decided to use the official acronym "OPIC", the instrument was commonly referred as "OP3CRC".

⁴¹ **Campaign Members:** Aajako Shiksha Weekly, Aasaman Nepal, Baal Chhetra Nepal, Child Development Society (CDS), Child Nepal (CN), Children Nepal, Child Workers in Nepal Concern Centre (CWIN), Child Welfare Society, Children and Women in Social Service and Human Rights (CWISH), Concern Society Nepal, Concern Nepal, Cooperation Society Nepal, Hatemalo Sanchar, Human Rights Film Center, National Human Rights Foundation (HURFON), Informal Sector Service Center (INSEC), ISK-Nepal, Jaan Sewa Nepal, Jagaran Nepal, Jagriti Child and Youth Concern Nepal (JCYCN), JuRI- Nepal, Kathmandu School of law (KSL), Loo Niva Child Concern Group, Nepal Goodweave Foundation, Partnership Nepal, Protection Nepal, Rural Reconstruction Nepal (RRN), Sarthak Shiksha, Shakti Samuha, Swantrata Aviyan, Urban Environment Management Society (UEMS), Voice Of Children (VOC), YAV-Nepal. **Solidarity Members:** Consortium-Nepal, Child Care Homes' Network-Nepal (C-Net), Children as Zones of Peace National Campaign (CZOP), Human Rights Treaty Monitoring Coordination Center (HRTMCC), National Action and Coordinating Group (NACG), National Child-Friendly Local Governance Forum (NCFLG) Forum, National Child Protection Alliance (NCPA), Community School Management Committee Federation Nepal (SMC Federation), Inclusive Education Forum Nepal, Alliance Against Trafficking in Women and Children in Nepal (AATWIN), Destination Unknown Children on Move (DUCOM). **Observer Members:** ECPAT Luxembourg, Save the Children, Kindernothilfe (KNH), PLAN International Nepal and World Vision International Nepal.

Ratify OP3 CRC

Coalition Nepal

ratification of the OPIC as a broader strategy to strengthen the national protection of child rights. In this context, the CN has successfully engaged with the UN system this year by submitting [their recommendations to the Universal Periodic Review \(UPR\)](#) for the next

review cycle of Nepal, scheduled for November 2020, recommending the ratification of the OPIC.

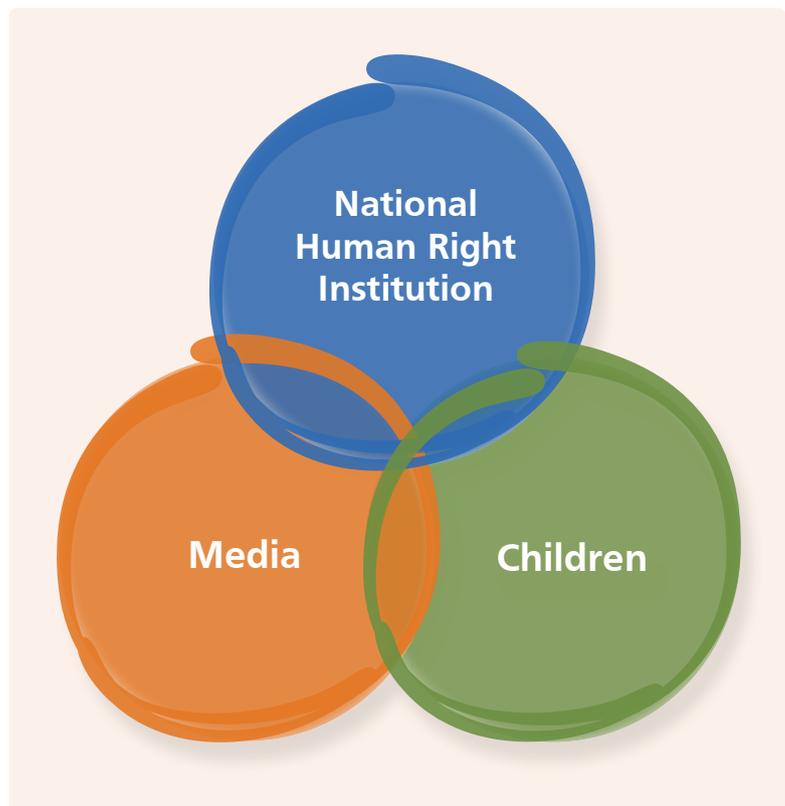
In order to achieve wide dissemination and awareness of the OPIC in the public sphere, the coalition has developed several creative and unique activities and strategies promoting the ratification of the OPIC. The activities and strategies involve their key partners, such as CSOs, the NHRI, the media and children.

Key partners of the “Ratify OP3CRC Coalition Nepal”

1. The NHRI

A key strategy of the coalition’s work on the OPIC is its partnership with the NHRI, which has helped bring attention and recognition to the necessity of ratifying the OPIC at the national level. Since 2017, when they signed a Memorandum of Understanding, the coalition and the NHRI have developed an annual workshop with civil society on the OPIC, particularly promoting its ratification. Some of these workshops count the presence of members of the Committee. In the case of the December 2019 workshop⁴², the presence of the Committee member from Japan, Ms Mikiko Otani, helped to strengthen the interaction of the NHRIs and CSOs with government officials.

The CRC member was also able to hold separate meetings to advocate for OPIC ratification with the Minister of Foreign Affairs and the Minister of Children, Women and Senior Citizens.



⁴² High Level Dialogue on Child Rights Situations and Relevance of OP3CRC In Nepal, 16 December 2019

Following the annual workshops, there has been a yearly joint declaration between civil society and the NHRI on children's rights, where the ratification of OPIC has been prioritised. This declaration has proven to be a particularly useful tool for OPIC advocacy at the national level. Further, in each recommendation or national report issued by the NHRI, the latter has mentioned the need for the ratification of the OPIC, thus giving constant attention to the issue.

2. The media

In addition to their partnership with the NHRI, the coalition's relationship and activities carried out with the media have been a unique aspect of their advocacy work on the OPIC. In December 2017, the coalition organised a specific workshop on OPIC for the media, acknowledging the importance for the OPIC to be known and supported by the general public. The "[Policy Dialogue with National Media on OP3CRC](#)" workshop⁴³ was held on 4th December 2017 and has encouraged the publication of news and articles on the work of the coalition as well as the importance of the OPIC ratification.

Then, in April 2019, the coalition decided to take its partnership with the media to the next level by creating a specific TV Programme called "Bal Bimarsha" (Dialogue with Children)⁴⁴ regarding child rights, which shares information on the OPIC. Indeed, in this Programme, aired every Sunday, parliamentarians, government officials and child rights experts are invited to talk about child rights in Nepal and discuss the importance of ratifying the OPIC. In addition to putting the OPIC ratification into public discourse, the TV Programme has consolidated the support for the OPIC ratification among various circles, including CSOs and child human rights defenders.

3. Children

The coalition has also involved children in its advocacy work around the OPIC. For instance, on 19th January 2019 it organised a [Mock session](#) on the OPIC,⁴⁵ examining individual communications under the OPIC with 19 children. The work with children aims to provide them with a better understanding of the OPIC, encouraging them to then spread the information in their children's clubs and with their peers.

Finally, an important strategy of the coalition relies on developing and disseminating information via accessible and child-friendly documents to build knowledge about the OPIC. For instance, their [advocacy toolkit](#) has been disseminated among all key stakeholders, government and parliamentarians. They have also prepared a [child-friendly version of the OPIC in Nepali](#).

⁴³ [Policy Dialogue with National Media Report](#), 4th December 2017

⁴⁴ <https://www.childnepal.org/index.php/programs?id=55>, located in section B of the website

⁴⁵ [Mock session on OP3CRC with children](#), 19th January, 2019



Challenges encountered in the coalition's advocacy work/arguments against OPIC ratification

■ Fragmentation of CSOs/no common voice

For a long time, civil society and child rights organisations in Nepal were fragmented on the agenda of the OPIC ratification which did not allow to have a common voice and a common understanding of the need/timing to advocate for the ratification the OPIC. The advocacy work carried out with the media was key for the coalition to get more CSOs on board increasing their coalition membership from 19 to more than 35 members.

■ Governmental policy focusing on implementing international instruments to which the State is party

The discourse of the new government (led by the Prime Minister Sharma Oil elected in 2018 from the Nepal Communist Party), has been to focus on internal development and materializing the commitments made in international instruments to which the State is already party. Thus, the ratification of any new international instrument has been deprioritised for the time being. However, the coalition in Nepal has observed that targeting the more influential decision-makers could bypass this official policy. Hence, they are currently focusing on developing this strategy. Also, since Nepal has ratified the UNCRC, ratifying the OPIC is in line with the commitment already made to child rights. In the words of the Committee, access to remedies is what gives meaning to child rights. Hopefully engaging with the influential decision-makers in Nepal can help the coalition get this message across.

■ Government fear of additional burden following ratification

The Government of Nepal does not favour ratifying the OPIC, as it fears additional burden, particularly from having to dedicate more resources as a result of potentially increased interaction with the Committee. While it is true that some adjustments might need to be made to deal with incoming communication at the national level, this concern might be exaggerated as the OPIC is a procedural instrument and thus does not introduce any new substantive obligations for States. Indeed, Nepal already accepted all of the substantive obligations by becoming parties to the UNCRC and its first two Optional Protocols.

■ Fear of past violations being brought to the Committee

There has been a continued impunity for the 10-year armed conflict (1996-2006) between the Maoists and the government forces that ended with the

abolition of the Monarchy and the establishment of a federal democratic republic in Nepal. During this conflict, many child rights violations were committed, such as abduction, recruitment and use of children for military purposes, enforced disappearances or arbitrary detentions.⁴⁶ The government fears that these past violations can be brought to the Committee, making it reluctant to ratify the OPIC. The coalition believes this fear could be resolved by providing more information on the OPIC and its article 20 specifically. Indeed, article 20 of the OPIC provides that only violations having occurred after the entry into force of the OPIC for the State in question can be brought before the Committee. Thus, proper dissemination and capacity building of the OPIC can help overcome this misunderstanding.

■ **Strengthen national systems of protection before ratifying the OPIC**

A common argument against ratification by the government and some CSOs,⁴⁷ has been to focus on strengthening the national children protection system before ratifying the OPIC. Indeed, the OPIC is not seen as a tool to help strengthen the national systems of protection as seen above in this publication.

■ **Difficulty in a continuing advocacy strategy due to shifting interlocutors**

The regular shifting of government officials from one role to another impedes building on existing advocacy work and relationships. There is a lot of change in the government, so the advocacy constantly needs to start from zero.

These challenges that the coalition in Nepal has encountered have allowed them to also draw some lessons on how to improve their advocacy support.



Lessons learned

■ **CSOs should have a common agenda and work together**

The advocacy work for ratification cannot be an agenda item of one CSO, but should be seen as a common goal for all the organisations working for the promotion and protection of child rights. As there is always competition between CSOs, it is important to generate a common understanding of the importance of ratifying the OPIC and the need for CSOs to support

⁴⁶ *Consideration of Reports Submitted by States Parties under Article 44 of the Convention Concluding observations: Nepal*, Committee on the Rights of the Child, CRC/C/15/Add.261, 21 September 2005, para 81

⁴⁷ All CSOs did not back OPIC ratification when the Ratify OP3CRC coalition Nepal was created. Advocacy through the media was key to increase support for OPIC ratification.

each other, so the OPIC ratification can be fully endorsed by a diversity of actors. Similarly, the support that Child Nepal can provide to other CSOs of the coalition advocating for other child rights issues (e.g. the ratification of the Palermo Protocol) can also help Child Nepal gather supporters for the OPIC ratification advocacy. Thus, working together as civil society is important.

■ **OPIC ratification is in line with the commitment made to ensure child rights and should be framed this way**

Advocacy work for the OPIC ratification should be framed as a continuous commitment to the UNCRC and its Optional Protocols, which have already been accepted by the government;

■ **Importance of targeting key decision-makers at the national level**

Previously, the advocacy work of the coalition was focused mostly on targeting the ministries working with child issues. The coalition then discovered that the advocacy work should target key decision-makers, including at the Provincial level, who can then lobby authorities at the national level.

■ **Collaboration with NHRI is key**

The collaboration with the NHRI is fundamental since it enriches and gives legitimacy to the advocacy work, particularly with the government, but also with other CSOs.

■ **Importance of OPIC reaching the general public/ the media as a key partner**

The media is a key actor in disseminating the information on the OPIC to the general public. More knowledge and awareness-raising on the OPIC is still needed. The media can help a technical instrument such as the OPIC reach the general public. Making the OPIC accessible to the general public is key in order to strengthen public support.



Child Nepal's tips for CSOs advocating for the ratification of the OPIC

■ Civil Society needs to have a common voice

For instance, when there are public meetings or forums, CSOs need to constantly raise the ratification of the OPIC. It is important for the OPIC ratification to be on everyone's agenda.

■ Importance of having a solid knowledge on OPIC

CSOs must have solid knowledge of the OPIC, strong documentation of the implementation of the OPIC on the ground, and awareness of the latest developments within the Committee. Having good knowledge of the topic and accessible documents and materials ready to distribute are key to convince others and support one's advocacy.

■ Make the OPIC accessible to the general public

It is important to use existing digital media and online platforms to reach large groups of people with a simple language.



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United Kingdom of Great Britain and Northern Ireland

Children leading the advocacy on OPIC ratification

In 2016, the Committee on the Rights of the Child reviewed the United Kingdom (UK), where it recommended the State to ratify the OPIC.⁴⁸ The Committee welcomed the increased independence of the Children's Commissioners along with the initiatives that they have taken to ensure the promotion and protection of the rights of the child; however, it expressed concern for the limited powers of the Commissioners for Northern Ireland and Wales and the lack of investigations on behalf of individual children by the Scottish Commissioner.⁴⁹ Regarding the ratification of the OPIC, the UK in its State report recognised that ratifying the Optional Protocol may add further protection for children in respect of their rights and would continue to keep this under review in light of emerging information about procedures and practice.⁵⁰ The UK will present its next report to the Committee in January 2022.



[Amnesty's International UK Children's Human Rights Network,](#)

[based in the UK](#), is a network of human rights activists dedicated to promoting the rights of children, as they are enshrined in the UNCRC, all over the world. It has existed for 30 years, with a mailing list of around ten thousand. The Network is part of Amnesty International UK and the larger international movement. It has partnered with Amnesty International's UK youth and school groups on certain campaigns. Other partners include local children charities, UNICEF UK, youth parliaments such as the Scottish children parliament and small organisations who work with children.

The Committee of the Children Human Rights Network coordinates the work of the Network and is currently being restructured to be composed of 12 persons, including four seats reserved for children, and eight which can be filled either by children or adults.

The OPIC ratification became part of the Network's advocacy agenda with the 30th anniversary of the UNCRC in 2019. Indeed, bearing in mind that access to justice for children is the basis of all of their rights, the Network viewed the celebration of the 30th anniversary as incomplete without the universal ratification of the OPIC, including by the UK.⁵¹ Initially focused on the 30th anniversary of the UNCRC, the Network is now looking to integrate this advocacy agenda

⁴⁸ [Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/G/BR/CO/5, 12 July 2016, para 88

⁴⁹ *Idem* para 15

⁵⁰ [Consideration of reports submitted by States parties under article 44 of the Convention Fifth periodic reports of States parties due in 2014 United Kingdom](#), CRC/C/GBR/5, 6 March 2017, para 17

⁵¹ [The Right To Complain: Petition Hand in](#), *Blog by Holly Shorey, Vice-Chair of the Amnesty UK Children's Human Rights Network*, 10 September 2019; [If rights can't be enforced, are they really rights?](#), *Blog by Lisa Incedon, Children's Network Committee Member*, 20 July 2019

as part of their core work and long-term plan. They aim to develop a five-year strategy plan, with concrete activities, to be ready for the 35th anniversary of the UNCRC in 2024, and also feed into the UK's periodic review with a call for ratification.

In the context of the 30th anniversary of the UNCRC, Amnesty's UK Children's Human Rights Network called on the UK Government to commit to securing real and enforceable rights for all children by ratifying the OPIC. It carried out the following campaigns/activities:

Campaign: "Make Rights Real" (2019)

The campaign "[Make Rights Real](#)" argued that for children to be able to exercise their rights under the UNCRC and its Optional Protocols, their rights need to be enforceable. As part of the campaign the Network worked on gathering signatures for a petition supporting OPIC ratification by the UK and organised a youth action event with the active participation of numerous children. They also widely disseminated information on the OPIC.

Petition for UK to ratify the OPIC

The petition was launched in June 2019 and ran until the petition hand-in on the 6th September 2019. The network handed over to the UK Government, Department for Education, a petition to ratify the OPIC with [more than 7000 signatures](#).

Youth action event

Through the youth action event that was launched together with the petition, the Network invited children from all over the UK to make their own birthday cards celebrating the 30th birthday of the UNCRC. The cards included a message calling on the UK government to ratify the OPIC and were delivered to the Department of Education.



Additionally, they threw an "empty birthday party" on 6th September 2019, for 30 years of empty promises.⁵² 30 years of children being denied the ability to complain. 30 years of being the only international human rights treaty without an inbuilt complaint's mechanism. 30 years of children's rights not being made real. The birthday party had no cake, no balloons, and no hint of celebration to signal that the UNCRC anniversary was incomplete without the universal ratification of the OPIC. The network also handed out hundreds of [leaflets](#) to the public around Parliament Square, in London, spreading awareness of the issue, and crucially not inviting them to our 'party'.

⁵² [The Right to Complain: Petition Hand in](#), Blog post by Holly Shorey, Vice-Chair of the Amnesty UK Children's Human Rights Network, 10 September 2019.

Leaflet and dissemination of info on the OPIC

In the context of the campaign, the Network also prepared a [video](#) and a [leaflet](#) explaining the OPIC which was widely shared with children at [Amnesty International's UK Youth Conference 2019](#).



The Network also used their events to discuss the OPIC with participants, helping increase the awareness and understanding of this instrument with the general public. For instance, the Network introduced the OPIC to children aged 11 to 15, in their 'Children's Takeover' of the Amnesty UK office event. It

consisted in children running the Amnesty UK office for the day - participating in group workshop sessions with various teams in Amnesty UK.

Additionally, a panel discussion was organised with Amnesty UK staff on the topic of the OPIC in the context of the [Whitley Bay Film Festival](#), celebrating the 30th Anniversary of the UNCRC.

Finally, Amnesty UK Children's Network delivered numerous talks around the UK on the UNCRC, and how to make sure children's rights are real and enforceable. Some of the speeches/workshops included at the Laidlaw Foundation, Carnegie Awards, Trade Unions Congress Annual Meeting, and the Amnesty Climate Takeover.

Campaign: [Use your voice to demand your rights](#) (2019)

The campaign "Use your voice to demand your rights" was launched in 2019 with the aim to support young people to lead their own advocacy encouraging children and young people to take centre stage, have their voices heard and acted upon in issues affecting them. It is now a yearly campaign.

The campaign invites children to respond to a series of questions, either in writing or through videos, giving them an opportunity to share their views on issues directly affecting them. Further, the campaign provides for the finalists to meet key decision-makers and advocate for their issues of concern. The campaign aims to empower children by making their voices heard.

In 2019 the campaign gave children an opportunity to express themselves on the OPIC. Indeed, the questions asked were: "Why is your topic a children's human rights issue? Which Articles of the UN Convention on the Rights of the Child are most relevant to your children's human rights issue? And why? And

how would Optional Protocol 3 of the United Nations Convention on the Rights of the Child ensure that the rights of all children are made real and enforceable? How would Optional Protocol 3 address your chosen children's rights topic?"

[The winner of the 2019 campaign attended the 82nd session of the Committee on the Rights of the Child, where the Committee officially celebrated the 30th anniversary of the creation of the UNCRC.](#)

The 2020 edition of the "Use Your Voice to Demand Your Rights" campaign does not have an OPIC specific question, but the Network envisages to include it again in the future. "Use Your Voice to Demand Your Rights" will also be used as a model to develop rights-holder advocacy streams on any given campaign by making sure young people's voices from every area of the UK are fed into conversations on children's rights.



Letters and additional advocacy

In addition to these two campaigns, the Network also sent advocacy letters to parliamentarians in the UK, specifically to the Secretary of State for Education on 6th September 2019, arguing for OPIC ratification by the UK. The Network is still waiting to receive a response. Further, there were conversations with Children Commissioners, with a good response from the Scottish and Welsh Commissioners, which are partners of the Network, to help them push for the agenda of ratifying the OPIC.

Then, in the run-up to the [UN treaty week](#) held on 24-27 September 2019 in New York, the Network convinced Amnesty International secretariat to launch a "Global Call to ratify the OPIC" where all Amnesty sections across the world sent letters to the Ministries of Foreign Affairs of the States where they were based (irrespective of whether States had ratified the OPIC or not). The letters called for OPIC ratification and for States Parties to the OPIC to encourage other States to join them and encourage the universal ratification of the OPIC. The letters allowed for Amnesty's sections to engage and start a discussion with their respective Ministries regarding ratification of the OPIC. The 30th anniversary of the UNCRC, which would take place in the following two months, was presented as a key context for States to stand by their child rights commitments.

Moreover, the Network has used their [Children's Human Rights Network Blog](#) where several topics related to children's rights are discussed, as a space for children and young adults to discuss and disseminate the need for the ratification of the OPIC.⁵³

⁵³ See for instance: [The Right To Complain: Petition Hand in](#), Blog by Holly Shorey, Vice-Chair of the Amnesty UK Children's Human Rights Network, 10 September 2019 and [If rights can't be enforced, are they really rights?](#), Blog by Lisa Incedon, Children's Network Committee Member, 20 July 2019.

The Network was also able to call for the OPIC ratification during the [UNCRC 30th anniversary three-day conference held in Geneva from 18 to 20 November 2019](#). The conference was organised by the *Association 30 ans*, the Permanent Mission of Switzerland to the UN in Geneva, the University of Geneva, the OHCHR, and the Committee. On November 18th, during a panel dedicated to the OPIC which included the presence of the Committee member Ann Skelton, the Network shared their advocacy work and recalled the importance of ratifying the OPIC.⁵⁴



Amnesty International UK's Children's Human Rights Network has encountered the following challenges in their advocacy work:

■ Difficulty in identifying whom to target

Fully understanding who is responsible for OPIC ratification and identifying who needs to be influenced was challenging for the Network. Support from Children's Commissioners is strategic, as they can influence decision-makers. However, more awareness of the OPIC is needed as not all Children's Commissioners seem to be aware of the instrument and its importance.

■ Timing/Political context

On the one hand, the OPIC advocacy work carried out by the Network happened in the context of the Brexit process and the elections, which absorbed most of the general public attention and monopolised the public conversations in the UK. However, on the other hand, the 30th anniversary of the UNCRC helped get some attention on the issue, particularly when engaging States other than the UK.

■ Being part of a broad human rights institution, which doesn't prioritise children's rights

Being part of a broad human rights institution such as Amnesty International, which prioritises a "youth" agenda over child rights, presented challenges in terms of coordination and getting much-needed support from the International Secretariat. The Network tried to overcome this by framing the OPIC ratification and child rights as a human rights issue, in line with Amnesty's priorities. A key achievement of this strategy was the "Global call to ratify the OPIC" made by Amnesty International (see above). However, giving child rights a proper space within Amnesty's International agenda remains a challenge.

⁵⁴ Network committee members arguing the importance of OP3 to the CRC at the United Nations, Amnesty Children's Human Rights Network Committee, 21 November 2019.



Amnesty International UK's Children's Human Rights Network would like to give the following tips to the CSOs advocating for the ratification of the OPIC:

■ Get OPIC in the public space/opinion

It is necessary to get OPIC ratification discussions in the public radar and space, increase support and make it harder for the government to turn down. For this, it is important to involve the press as well as children. Creating situations where politicians and public officials must engage with the discussion publicly will make it harder for them to dismiss the issue.

■ Make the OPIC accessible and relatable to people

The OPIC is a technical instrument which is hard to explain. It is important to translate the importance of the OPIC to something that is meaningful for people. This is key to grow public support for the instrument. For example, the 2019 campaign "Use your voice to demand your rights" created a space to introduce the OPIC from the issues of concern of the participating children. Indeed, the campaign tried to introduce the OPIC as a tool to bring change in relation to the issues the participants cared about. In other words, the key is to frame the advocacy discourse as how the OPIC relates/ to and helps you advance on the issues you *already* care about. This was also the strategy used by the Network to engage with the International Secretariat of Amnesty International. The language used in the advocacy work needs to make the OPIC accessible for everyone and it must be relatable to the current child rights issues of concern (e.g. climate change).

■ Be prepared and very well informed about the UN treaty bodies and the OPIC

Most of the Network's advocacy work was based on explaining that the OPIC needs to be ratified out of principle, to make child rights real. However, when dismissive arguments on the OPIC ratification were presented to them, including that the UN complaint procedures were overloaded, the Network found they needed to be better prepared and informed on the reality of the UN treaty bodies and the OPIC, to respond effectively.



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Senegal

Children empowering children to advocate for OPIC ratification

On 1 October 2012, Senegal signed the OPIC but has yet to ratify the instrument. In 2016, the Committee on the Rights of the Child reviewed Senegal. In order to further strengthen the fulfilment of children's rights, the Committee recommended that Senegal ratify the OPIC⁵⁵ and expeditiously adopt the draft law establishing an independent ombudsman for children that is able to receive, investigate and address complaints by children in a child-sensitive manner.⁵⁶ Senegal will present its next report to the Committee in March 2021.



[The Coalition Nationale des Associations et ONGs en Faveur de l'Enfant \(CONAFE\)](#) is a human rights NGO focused on children's rights. The CONAFE was created in December 2004 in the context of several commitments taken by the Senegalese government and the civil society" after the adoption

of the General Assembly Resolution S-27/2 "A world fit for children"⁵⁷ in 2002. The CONAFE is formed by more than a hundred national CSOs that focus on protecting, promoting and defending the rights of children in the 14 regions of Senegal. They are supported by its partner Save the Children International. The areas of action of the CONAFE around the protection and defense of the rights of the child cover the strategic axes of: knowledge production, the promotion of the rights of the child and the strengthening of the capacities of

actors, the promotion of the participation of children, the monitoring of the commitments of the State. The CONAFE's work has extended beyond the national level, with its participation in pre-sessions and sessions of the Committee on the Rights of the Child, the ACERWC and in the reporting process of the UPR. The CONAFE also monitors the implementation of international and regional human rights conventions, including the UNCRC and the ACRWC.

The CONAFE sees the ratification of the OPIC as an opportunity to strengthen the national legal system and the implementation of children's rights in Senegal. The CONAFE became active in its advocacy for the OPIC ratification in Senegal in 2016. Activities conducted at the national level to promote OPIC ratification have included: advocacy with parliamentarians, the Ministère de la Femme, de la Famille, du Genre et de la Protection des enfants (Ministry of Women, Family, Gender and children protection) and the Ministère de la Justice (Ministry of Justice); the dissemination of the Concluding Observations of the Committee on the Rights of the Child

⁵⁵ [Concluding observations on the combined third to fifth periodic reports of Senegal](#), Committee on the Rights of the Child, CRC/C/SEN/CO/3-5, 7 March 2016, para 75

⁵⁶ *Ibid*, para 18 (a)

⁵⁷ [Resolution adopted by the General Assembly S-27/2 "A world fit for children"](#), General Assembly of the United Nations, A/RES/S-27/2, 11 October 2002.

recommending Senegal to ratify the OPIC and further access to justice for children; and the realisation of training workshops to familiarise children and the media to the instrument. The CONAFE's advocacy for OPIC ratification has also extended beyond the national level. For example, during the Third Cycle of the UPR of Senegal in 2018, the CONAFE recommended that Senegal should ratify the OPIC.⁵⁸ Further, the CONAFE has actively advocated for OPIC ratification when attending sessions and pre-sessions of the Committee on the Rights of the Child, as well as by submitting alternative reports to Senegal's national reports to this treaty body.

In addition to joint action with its network of member organisations, the CONAFE has several key partners with whom it carries out advocacy work on the ratification of the OPIC. These consist mainly of other CSOs, including international child rights organisations, the media and children.

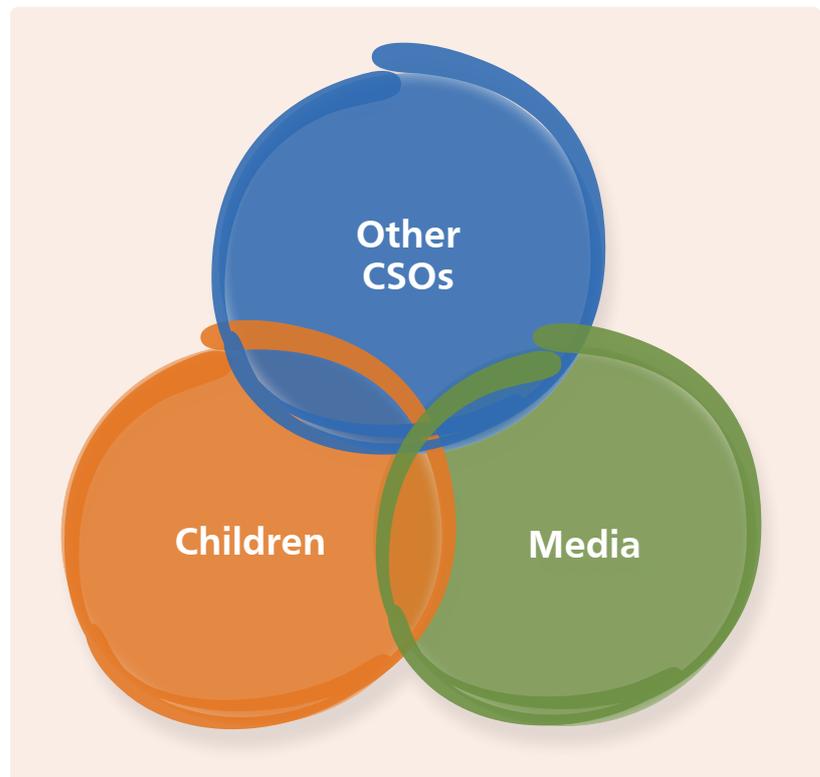
Due to financial limitations, the CONAFE's advocacy work on OPIC ratification has not been able to advance steadily. Indeed, the advocacy work has been characterised with moments of progress, the development of unique activities -particularly with children- and long pauses where the follow-up of many activities is still pending.

Key partners of the CONAFE

1. Other CSOs

In order to broaden their reach to different stakeholders for the OPIC ratification advocacy, in 2014 the CONAFE established a Groupe d'Initiative National ("GIN"; National Initiative Group) together with Plan International Senegal, UNICEF, Child Fund, Save the Children International, World Vision, the Association des Juristes Sénégalaises (Feminist Jurists Association of Senegal) (AJS), the Comité Sénégalais des droits de l'homme (Senegal's Committee for Human Rights) (CSDH), as well as other CSOs and technical partners, to advocate for the ratification of the OPIC. In

2014, the GIN drafted the first of its two advocacy plans ([2014-2016](#)), placing the participation of children at the heart of the advocacy strategy. In addition to envisaging campaigns to



⁵⁸ Summary of Stakeholders' submissions on Senegal, Human Rights Council Working Group on the Universal Periodic Review, A/HRC/WG.6/31/SEN/3, 30 August 2018, para. 3.

disseminate the OPIC and make the instrument known, the advocacy plan foresaw advocacy with high-level authorities, parliamentarians, and local authorities. However, advocacy for OPIC ratification ended up being deprioritised, particularly the funding, and was not reactivated until 2016.

In November of 2016, Plan International (a member of the GIN) organised a [West and Central African regional conference on the OPIC](#) in Dakar. The conference reunited international child rights organisations as well as regional and national organisations from all over Africa, including the CONAFE. It allowed the exchange of the OPIC ratification experiences and possible ways forward. It also highlighted the relevance of the OPIC for the African region, bearing in mind the existence of the African Committee on Experts on the Rights and Welfare of the Child, as well as the OPIC's contribution to children's protection systems and access to justice.

The conference helped reactivate the work of the GIN, which drafted its second advocacy plan ([2017-2019](#)) to carry out the pending activities of its first advocacy plan, reach other actors and expand the advocacy to all 14 regions of Senegal. The new plan placed a strong focus on strengthening Senegal's legal child protection framework and on making the OPIC ratification a matter on everyone's agenda. In this sense, collaboration with the media was seen as a fundamental way for the OPIC to reach the general public.

The participation of different stakeholders from Senegal in the regional conference, including the CONAFE, the national office for Senegal of Save the Children International, and the CSDH, helped to relaunch discussions at the national level around Senegal's ratification of the OPIC. That same year (2016), thanks to the advocacy efforts of the CONAFE, the ratification of the OPIC was included as a priority issue within the Stratégie Nationale de Protection de l'Enfant (National Child Protection Strategy), which is the policy of reference framing governmental action regarding promotion and protection of children's rights in Senegal.

Currently the GIN is still pending to evaluate the success of its 2017-2019 advocacy plan and discuss the details of a new plan. The GIN had also discussed broadening its membership to include children from the 14 regions of Senegal and a representative of the media; the idea being that the latter would help in the elaboration of a new comprehensive action plan. However, increased hardship and shifting priorities due to the COVID-19 situation has put all these efforts on hold.

2. Media

As foreseen in the 2017-2019 advocacy plan of the GIN, for the CONAFE, the success of advocacy work for the OPIC ratification is linked to convincing the general public of the importance of the instrument and gathering a strong group of supporters to the instrument, including children. For the GIN, this could only be done through collaboration with the existing network of journalists already working on children's rights throughout the country. In this sense, in 2018, the CONAFE approached networks of journalists at the national and community level to speak about the OPIC and children's access to justice in Senegal. In September 2018, a one-day exchange workshop was organised by the GIN to discuss the necessity of ratifying the OPIC, and how this issue could be regularly raised by the media. This exchange included the participation of approximately 18 persons from the media, mainly journalists from community

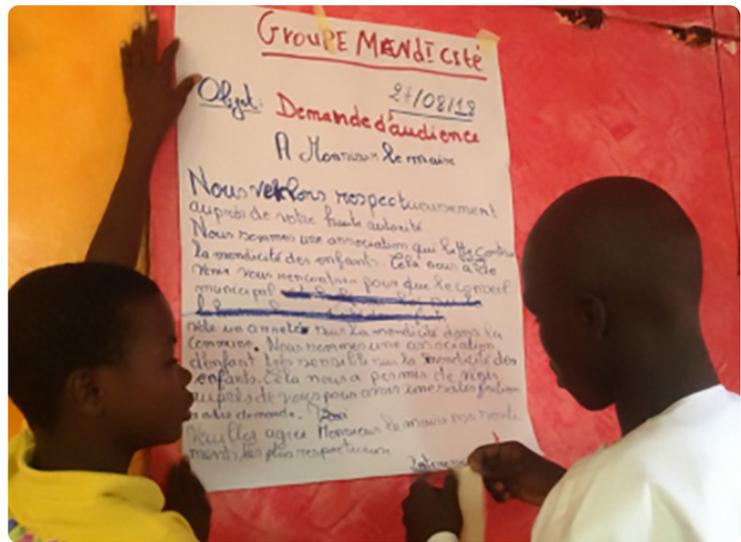
radio stations throughout the country.

This meeting was the first discussion on how to promote the OPIC through community radios - mainly, how to disseminate such a technical instrument in a way for it to be understood by the general population. It was also discussed that the president of the community radio network should join the GIN as a key partner.

Unfortunately, the follow-up to the exchange has been slow and further concrete activities have yet to be defined. This has been due to the lack of funding, and the general discouragement among the members of the GIN due to the fact that the OPIC and child rights are not a priority for the government.

3. Children

A unique characteristic of the CONAFE's advocacy work with regards to OPIC ratification has been its close partnership with children. Indeed, for the CONAFE, children should be empowered to advocate for OPIC ratification themselves. In this sense, they established a capacity building workshop for children, with the idea that the participating children would then have to train other children themselves, and further help spread the instrument.



The CONAFE organised its first [children's capacity building workshop on the OPIC](#)⁵⁹ on 27-28 July 2018, together with its partners Plan International, the AJS, the OHCHR, Save the Children and UNICEF.

This workshop took place in the region of Dakar and was a pilot programme in order to replicate the workshop in the 13 other regions of Senegal. The workshop counted the participation of 19 children representatives aged 14 to 18, including children with disabilities and children without access to school education. The children were selected from the Advisory Boards of Children and Youth⁶⁰ from the four departments that form the region of Dakar (Dakar, Guédiawaye, Pikine and Rufisque), as well as from schools selected by the AJS and from Community Clubs that were engaged working with Plan International.

Putting children at the forefront of the OPIC ratification advocacy work, the workshop focused on:

- Making the OPIC understandable for children, including the concepts and procedures related to access to justice at the regional and international level, as well as preparing

⁵⁹ Press release, 3ème Protocole facultatif à la CDE établissant les communications (OP3): Outiller les enfants et porter le plaidoyer pour sa ratification par le Sénégal, 25 July 2018.

⁶⁰ Following the UN Study on Violence against Children in 2006, Advisory Boards of Children and Youth been established in Senegal.

them to advocate alongside the CSOs for the ratification of the OPIC;

- Explaining advocacy and its elements to children, mainly to determine what the children want to change, who will make the change, the quality of the change and the timeframe;
- Explaining to the children how to write an impactful message to different targets.

After the workshop, the children chose eight children “leaders” among the participants to be part of the GIN and participate in the definition and implementation of its advocacy strategy work around OPIC ratification. The idea was for these children to join the GIN after the workshop would have been replicated in the 13 regions of Senegal, and the children “leaders” from the other regions in Senegal would have been chosen.

After the workshop, a formal day for disseminating the information and knowledge acquired by the children was organised in their respective clubs and organisations. This day was led by the children that attended the workshop. The CONAFE was present and supported the transfer of knowledge by doing child-friendly summaries of what had been discussed at the workshop and helping facilitate the session. At the end of the knowledge-transfer sessions, a total of 88 children and adolescents were familiar with the OPIC and the key elements composing an impactful advocacy strategy.

In spite of the first workshop being very well received and appreciated by the children participating in it, funding limitations have impeded the ability of the CONAFE and the GIN to replicate the children’s workshop in Senegal’s other 13 regions. At the time of writing, children have not been able to join the GIN.



Challenges encountered in the CONAFE’s advocacy work for the OPIC ratification

■ Lack of resources

The CONAFE has not been able to develop steady advocacy work for the ratification of the OPIC due to the lack of sufficient funds from external and governmental sources. Indeed, its OPIC advocacy work has been characterised with moments of progress, the development of unique activities - particularly with children - and long pauses where the follow-up of many activities is still pending, as is currently the case. In this sense, the CONAFE has realised that advocacy for the OPIC would have more continuity and a bigger impact if it were not framed as part of a multidimensional programme, as is currently the case. Rather, the CONAFE considers that having the ratification of the OPIC framed as a specific programme, with its own funding and strategies, would allow for continuous and strengthened advocacy.

■ Lack of a strong partner active on OPIC ratification

The lack of a strong partner to jointly carry out advocacy work on the OPIC ratification has not benefitted the CONAFE's advocacy work on the OPIC. The effective involvement and determination of the Senegalese NHRI (i.e. Senegal's Committee for Human Rights (CSDH)) to support the OPIC ratification process could add value and help strengthen the advocacy carried out by the CONAFE and the GIN. However, the OPIC ratification has not been a priority on their agenda. Further, since 2012, the CSDH was downgraded to a "B" category for not complying with the Paris Principles, possibly explaining the fact that they have not been very active on OPIC ratification. Further, given that Senegal has yet to establish an ombudsperson for children, it has not been able to count on such a partner.⁶¹ In addition, the partnerships of the CONAFE within governmental ministries are not very strong, and for those for which a relationship exists (e.g. Ministère de la Femme, de la Famille, du Genre et de la Protection des enfants et le Ministère de la Justice) misunderstandings exist with regards to the role of the OPIC, and the importance for children to access justice. Capacity building on OPIC for governmental officials is a pending activity to develop.

■ OPIC ratification and the effective implementation of child rights: not a governmental priority

Although the government does not actively oppose the ratification of the OPIC, it does not consider the OPIC nor child rights as a priority. International agenda remains a challenge.

■ Influential groups oppose the ratification

Besides not being a priority for the government, the ratification of the OPIC is opposed by influential groups such as some Quranic teachers – also known as marabouts – that see the OPIC as a threat to their practices, since under the OPIC, children are recognised and empowered as rights-holders. Some judges and members of the judiciary also oppose the ratification since they consider that the national law should be modified before ratifying the OPIC – and this is a long, tedious and expensive national procedure. This shows a misunderstanding of the OPIC, one which doesn't need to be incorporated into national law.

⁶¹ Concluding observations on the combined third to fifth periodic reports of Senegal, Committee on the Rights of the Child, CRC/C/SEN/CO/3-5, 7 March 2016, para 17

■ Difficulty to maintain other partners engaged

The scarcity of appropriate funding and the lack of interest by the government in child rights, has made it difficult to keep other members of the GIN interested and engaged. In the end, the OPIC agenda has not been prioritised. This is reflected in the sporadic advocacy activities, as well as in the inability to systematically follow up on their plans and projects.

■ Lack of experience-sharing among organisations

“Have other CSO’s dealt with the same challenges as us? How have they overcome them?” The CONAFE is very keen to learn from other CSOs about their OPIC ratification advocacy experiences, and see if they can create synergies and find solutions to the problems they face. The creation of a space for dialogue and exchange on the OPIC ratification work among CSOs is seen as a crucial step in advancing towards the OPIC ratification.



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South America

From local to global, working with CSOs coalitions to advocate for the OPIC ratification at different levels

The State Parties to the [Mercado Común del Sur](#) (Mercosur)⁶² ratified the OPIC in the following order: Argentina on 14 April 2015, Brazil on 29 September 2017, Paraguay on 20 January 2017, and Uruguay on 23 February 2015.

In these four countries, the work of intergovernmental organisations such as the Mercosur and the joint advocacy of international, regional and sub-regional CSO coalitions were instrumental in advancing the process of ratification of the OPIC. The strategy used by the CSOs coalitions to push for OPIC ratification at different levels (national, sub-regional, regional and eventually international) is known as “local to global”. It consists of a coordinated advocacy linking local, national, regional and global levels, seeking to amplify the impact of the advocacy work.⁶³ As we will see in the next section, among the key actors allowing for OPIC ratification in these countries were the REDLAMYC (a regional Latin American CSO coalition of child rights) and the Red de Coaliciones Sur (a sub-regional network of South American CSOs part of REDLAMYC).



1. Regional CSOs coalition

[The Red Latinoamericana y Caribeña por la Defensa de los Derechos de los Niños, Niñas y Adolescentes \(REDLAMYC\)](#) was a network of regional and national children’s rights NGOs from Latin America and the Caribbean that reunited to actively engage in the defense of children’s rights. It was created in June 2000 to participate in the 2002 UN General Assembly’s Special Session on Children.⁶⁴ The REDLAMYC was composed of 30 national networks from 24 countries that include approximately 2,500 NGOs from the Latin American and the Caribbean region. The REDLAMYC was organised in three sub-regions (see below) which form a regional Committee, responsible for coordinating joint-regional advocacy on different child right issues. The regional Committee included one representative from each Sub-region and one General Coordinator.

⁶² The Mercosur is a regional integration process, founded by Argentina, Brazil, Paraguay and Uruguay. It was established by the Asunción Treaty in 1991 and the Protocol of Ouro Preto in 1994. Venezuela became a State party in 2013 but was suspended in December 2016. Besides the State Parties, the Mercosur has Associated Members that include Bolivia (in the process of becoming a State Party), Colombia, Chile, Ecuador, Guyana, Peru, and Suriname, and Observer Members that include Mexico and New Zealand.

⁶³ Voors Barbara, [Local to Global, A Short Introduction](#), Save the Children Sweden’s International Programme 2018/19, p.1

⁶⁴ See https://www.un.org/en/events/pastevents/GA_children_2002.shtml

REDLAMYC's three sub-regions were:

1. The **Andean Sub-region** (Bolivia, Colombia, Ecuador, Peru and Venezuela),
2. The **Mesoamerican and the Caribbean Region** (Aruba, Costa Rica, Cuba, Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Jamaica, Puerto Rico, Belize, Dominican Republic, and Trinidad and Tobago.) and
3. The **South Sub-region** (Argentina, Brazil, Chile, Paraguay and Uruguay).

In 2011, the same year the OPIC was adopted by the UN General Assembly, REDLAMYC included advocacy for the OPIC ratification among its top priorities. During the [annual assembly](#) with its members that same year, the REDLAMYC decided to create a working group, including one member of each country network, to follow up on the ratification of the OPIC. The working group became a space through which the REDLAMYC supported ratification processes at the national level as members exchanged on planned advocacy activities, challenges and lessons learned. It was also a space to plan and follow up joint advocacy initiatives, particularly with the International Coalition to ratify the OPIC, which REDLAMYC joined in 2013.

The International Coalition to ratify the OPIC was set up in 2012 to raise awareness about the OPIC and share information and ideas to help interested partners work towards ratification of the OPIC.



The International Coalition provided a platform for coordinated action of national, regional and international NGOs and networks, human rights institutions and other non-governmental bodies committed to the rapid entry into force of the OPIC.⁶⁵ By joining the International Coalition, REDLAMYC engaged in joint advocacy activities with the International Coalition such as participation in the first regional workshop on the OPIC for CSOs and NHRIs, organised in Panama in April 2012 by the International Coalition and with the participation of other regional CSOs. The partnership with the International Coalition strengthened the advocacy of REDLAMYC for the OPIC ratification, as the International Coalition provided key tools that the regional coalitions could use in their advocacy work, such as the [OPIC Information pack publication \(2014\)](#) and [letter templates](#) to send to the Foreign Affairs Ministries promoting OPIC ratification.

In REDLAMYC's [strategic plan 2013-2017](#), one of the main objectives was to achieve the ratification of the OPIC through working directly with the governments and through child participation. In this sense, the REDLAMYC was involved in advocacy at the inter-governmental setting of the Mercosur for child rights and issues, where it also promoted the participation of children (see below). Further, the REDLAMYC included children's concerns in their advocacy planning and widely disseminated the OPIC through their own created materials, as well as those of the International Coalition.

⁶⁵ According to Article 19.1 of the OPIC, the Protocol could only enter into force "three months after the deposit of the tenth instrument of ratification or accession". Costa Rica was the 10th State to ratify the OPIC on 14 January 2014.

In addition to the partnership with the International Coalition, REDLAMYC also worked to advance the OPIC ratification advocacy with the members of the [Movimiento Mundial por la Infancia de Latinoamérica y el Caribe](#), a strategic alliance of the main organisations and networks in the region working for the promotion, protection and defense of children’s rights.⁶⁶ For REDLAMYC, the engagement of CSOs and other child rights organisations in the campaigns to ratify the OPIC was fundamental. In this sense, REDLAMYC was active in organizing capacity building sessions on the OPIC and supporting the advocacy work carried out by members of the Movimiento Mundial. One of the joint advocacy activities carried out by the Movimiento Mundial, REDLAMYC and the International Coalition consisted of sending letters advocating for the ratification of the OPIC to all the UN permanent missions of Latin American countries, in the context of the 2013 UN treaty week. This joint advocacy was followed up and complemented by local advocacy work in each country with the respective authorities in matters of childhood and human rights and with the Ministries of Foreign Affairs.

In addition to partnering up with other international CSOs and the Movimiento Mundial to promote the ratification of the OPIC, REDLAMYC also worked closely with several international and regional human rights organisations and inter-governmental bodies such as the [Reunión de Altas Autoridades sobre Derechos Humanos y Cancillerías of Mercosur](#) (RADDHH), which is an intergovernmental space within the Mercosur where human rights experts, governmental authorities and CSOs of the region join to effectively implement human rights.⁶⁷ Specifically, in June 2013, REDLAMYC participated in the [XXIII reunion of the RAADDHH](#) with a presentation on the OPIC ratification. This included the participation of a 13-year-old child from El Salvador who explained, from a child’s point of view, the importance of this instrument for the defense of children s rights.⁶⁸

Additionally, REDLAMYC had a consistent alliance with the former SRSG on VaC, Marta Santos Pais, on advocacy actions in the regional and international arena. For instance, the REDLAMYC was an important partner with the International Coalition in the organisation of the event “Making Children’s Voices a Reality: Mobilizing States toward Ratification of the Third Optional Protocol to the UN Convention on the Rights of the Child” that took place in New York in February 2013, and where the SRSG on VaC called for the rapid entry into force of the OPIC.

The joint advocacy of REDLAMYC and its partners was key to advance on OPIC ratification. This coordinated advocacy, at different levels, strengthened and consolidated OPIC advocacy, helping the instrument to be known and increasing support for its ratification. Further, the coordinated advocacy of its members, which REDLAMYC strongly supported, at the same time empowered and strengthened the REDLAMYC’s advocacy for the ratification of the OPIC at the regional and national levels.

⁶⁶ The Movimiento Mundial por la Infancia de Latinoamérica y el Caribe has the following permanent members: Asociación Cristiana de Jóvenes ACJ/YMCA; Aldeas Infantiles SOS International; ChildFund International; Child Helpline International; Defensa de Niñas y Niños Internacional (DNI); End Child Prostitution, Child Pornography and Trafficking of Children (ECPAT International); Fondo de Naciones Unidas para la Infancia (UNICEF); Fundación Marista de Solidaridad Internacional (FMSI); International Centre for Missing and Exploited Children (ICMEC); (Instituto Centroamericano de Estudios Fiscales (ICEFI); el Instituto Interamericano del Niño, la Niña y Adolescentes (IIN-OEA); Lumos, Plan Internacional; Red ANDI, Red Latinoamericana y Caribeña por la Defensa de los Derechos de los Niños, Niñas y Adolescentes (REDLAMYC); Save the Children; Tear Fund; Viva; Juntos por la Niñez and World Vision International.

⁶⁷ The RAADDHH was created in 2004 with the objective to ensure the full validity of democratic institutions and the respect, promotion and protection of human rights and fundamental freedoms. The RAADDHH is integrated by the Heads of the Ministry of Foreign Affairs and Human Rights authorities of the Mercosur states. It meets twice a year.

⁶⁸ [Memoria Asamblea Anual de la REDLAMYC 27, 28 y 29 de noviembre del 2013 Ciudad de México](#)

2. Sub-regional CSOs coalition

One of the members of the REDLAMYC was the [Red de Coaliciones Sur](#), an international platform with a sub-regional character that is formed by national CSOs coalitions from Argentina, Brazil, Chile, Paraguay and Uruguay, specialised in the protection and promotion of children rights. The coalition was established in November 2013 after these national coalitions presented a joint workplan for a call from the European Union with the aim to reinforce the represented networks of the Latin-American CSOs in the protection and promotion of children's rights. The network is formed by the following national coalitions:

- [Colectivo de Derechos de Infancia y Adolescencia](#) (Argentina)
- [Movimento Nacional de Direitos Humanos](#) (Brazil)
- [La Associação Nacional dos Centros de Defesa da Criança e do Adolescente](#) (ANCED) (Brazil)
- [Red de ONGS Infancia y Juventud](#) (ROIJ) (Chile)
- [Coordinadora por los Derechos de la Infancia y Adolescencia](#) (CDIA) (Paraguay)
- [Comité de los Derechos del Niño](#) (CDNU)(Uruguay)
- [La Asociación Nacional de Organizaciones No Gubernamentales Orientadas al Desarrollo](#) (ANONG) (Uruguay)

Each of these coalitions had followed the drafting process of the OPIC and actively advocated for the ratification of the instrument at the national level, in line with REDLAMYC's prioritisation of the issue. Some of the advocacy activities the coalitions of the Red de Coaliciones Sur have carried out at the national level are visits to parliamentarians helping raise awareness and support for OPIC ratification. Many of these encounters were complemented with trainings on the OPIC for the technical teams working alongside the parliamentarians. Additionally, the coalitions organised strategic meetings with the Ministries of Foreign Affairs of their countries as well as with members of the judiciary. Finally, the Red de Coaliciones Sur also developed child friendly material regarding the OPIC to disseminate among children and the general population of their respective countries.

When the coalitions reunited under the Red the Coaliciones Sur in 2013, it was only logical for the advocacy around OPIC ratification to be extended to the regional inter-governmental platform where child rights issues were discussed within the Mercosur, known as Niños Sur. Niños Sur is a permanent commission, created in 2005 by the RAADDHH, that has as a main objective to articulate national efforts and to promote regional agreements oriented for the protection and promotion of child's rights. Niños Sur consists of State representatives on children and human rights issues.

The Red de Coaliciones Sur played a key role in putting OPIC ratification back on the agenda of Niños Sur and the RAADDHH, after the instrument's approval by the General Assembly of the UN. The OPIC was known by the Niños Sur and the RAADDHH which, as early as 2006,

had discussed the importance of the international community drafting such a document.⁶⁹ By placing the OPIC ratification back on the agenda of Niños Sur, the Red de Coaliciones Sur brought the OPIC back into the spotlight and set the ratification of the instrument as a priority for Mercosur States. The idea was that by putting the OPIC ratification on an inter-governmental forum -one with a pre-existing interest on the instrument- their national advocacy efforts would be strengthened. Further, commitments made at the regional level would have to be complied with at the national level.

The Red de Coaliciones Sur were well-acquainted with the high-level decision-makers in child rights from the different Mercosur countries composing the Niños Sur. They were regular participants of the bi-annual meetings of the Niños Sur and were familiar with the dynamics of this forum. Taking advantage of this, and their legitimacy resulting from their work and commitment to child rights, the Red de Coaliciones was able to influence key discussions and decisions on OPIC ratification at Niños Sur, which were then discussed and approved by the RAADDHH. The Red de Coaliciones Sur also organised specific capacity building sessions on the instrument for the Niños Sur, gathering support for its ratification and increasing awareness of the instrument among main child rights authorities from the Mercosur member States.

Sessions from Niños Sur take place every six months, each time in the territory of the Member State who has the pro tempore presidency at the moment. When the members of the Red de Coaliciones Sur met during one of these sessions, they used these meetings as an opportunity to approach, as a coalition, parliamentarians from the State where the session was taking place. Additionally, the Red de Coaliciones Sur promoted OPIC ratification through the press of the country where the session was unfolding.



⁶⁹ In June 2006, the RAADDHH adopted the Declaration on the Commitment to the Promotion and Protection of the Human Rights of Children and Adolescents in Mercosur and Associated States (para. 13) to actively promote and support the initiative of a future Optional Protocol regarding individual communications to the Convention of the Rights of the Child.

The Red de Coaliciones Sur liaised with REDLAMYC's working group for the OPIC ratification, keeping them informed of the developments at Niños Sur and the RAADDHH. Similarly, many of the advocacy activities carried out by the Red de Coaliciones Sur were planned and executed jointly with the REDLAMYC.

Thanks to the advocacy work of the Red Coaliciones Sur, supported by the REDLAMYC, of including and promoting the ratification of the OPIC amongst the Mercosur Member States, in June 2014 the pro tempore presidency of Uruguay⁷⁰ invited the States to make the necessary internal procedures to ensure the prompt entry into force of the OPIC with its ratification. In 2015 the Member States of Mercosur started with their ratification processes.



Observations and lessons learned in advocating for OPIC ratification

One of the main challenges and recurring fears expressed by several governmental officials, which REDLAMYC and the Red de Coaliciones Sur encountered in their advocacy work, was related to the additional burden to their workload of ratifying OPIC. Particularly, it was feared that national institutions would have to make certain internal adjustments to function smoothly after the entry into force of the OPIC, and that creating more efficient internal procedures was required to handle future incoming communications from the Committee. It was important to explain the work of CSOs to the governmental authorities, to show that the added value of the OPIC was worth doing the necessary internal adjustments, and to show that this instrument didn't add any further obligations to States than those that had already been agreed to when ratifying the UNCRC and its first two Optional Protocols. Further, the capacity building and dissemination of the instrument carried out by the CSOs played a key role in familiarising governmental officials, and the population in general, with the instrument, thus increasing support for its ratification.

Some of lessons learned by the REDLAMYC and the Red de Coaliciones sur in their advocacy work were the following:

- **The importance of joint advocacy as well as working in coalitions and networks of coalitions**

Working in coalitions and networks of coalitions proved fruitful in making every advocacy action for OPIC ratification stronger and with broader reach. The work of network coalitions also allowed the coordination of advocacy at higher levels, including inter-governmental regional organisations such

⁷⁰ Uruguay was part of the core group selected by the Human Rights Council to work on the draft text of the OPIC since December 2009.

as the Mercosur, where OPIC ratification was placed as a top priority, in line with the RAADDHH human rights commitments. The impact that coalitions can have in discussions and interactions with high-level decision-making authorities is exponential in comparison with the limited impact that an NGO or coalition can achieve alone. In coalitions, CSOs can complement and reinforce their work, consolidating their advocacy with far-reaching effects. In addition to advocacy carried out at the regional level, follow-up at the local level (thanks to national and local CSOs) allows for consistent and lasting advocacy, helping to gather support from a wide range of actors across different levels (i.e. national, provincial and municipal).

■ **Aiming for a clear, comprehensive advocacy strategy**

The different coalitions and networks realised that their OPIC advocacy work would benefit from using the available resources in the best way possible, as well as considering and tapping into existing working relationships with different actors (members and partners) across different levels (national, regional or international, civil society, inter-governmental, etc.), with the common goal to promote and protect child rights. When relationships didn't exist, bridges were built to advance towards the common goal. The "local to global" approach, which proved fundamental to reaching and influencing key actors to advance the OPIC ratification, did not come out of the blue. It was a premeditated tactic, part of a comprehensive advocacy strategy. Having a clear vision and advocacy strategy, using all available resources and uniting stakeholders with a common goal, can have a far greater impact than going at it alone.

■ **Need to have an effective communication strategy adapted to each stakeholder**

Discussions for OPIC ratification involve different stakeholders (e.g. government, parliamentarians, members of the judiciary, children, etc.) who can have different perceptions, questions and concerns when it comes to ratifying the instrument. In this sense, it is important to identify the targeted audience and adapt the language used as well as the elements to highlight in each conversation. Similarly, it is important to try to understand the concerns or fears of different stakeholders and to engage in friendly and constructive discussions rather than confrontational and aggressive dialogues, which leave less chance for agreements or compromises to be made.

FAQs and/or myths around OPIC ratification

1. My State is party to all/several core international human rights treaties and to a regional human rights Court. OPIC ratification is not needed.

There is a common misconception that States that are already party to other core international human rights treaties and regional human rights systems do not need to ratify the OPIC. However, the OPIC brings a specific added value complementing the universal and regional human rights system.

Complementarity with core international human rights treaties and UN treaty bodies

Within the UN treaty bodies and the core international human rights treaties the main added value of the OPIC is that it allows for a group of experts on child rights, the Committee on the Rights of the Child, to review complaints of violations of child rights, many of which are unique and only envisaged in the UNCRC, the OPAC and the OPSC (see factsheet 1). Moreover, the OPIC incorporates accessible and child-friendly procedures, with specific rules for the work of the Committee to be guided by the best interest of the child and the child's right to be heard, differentiating it from any other UN human rights treaty body.

Complementarity with regional human rights systems

The OPIC also complements regional human rights systems to which States are party. Both the Inter-American and the European human rights systems and their Conventions do not cover, separately or together, the full range and detail of rights for children set out in the UNCRC and OPSC and the OPAC. Further, these two regional systems do not have child-sensitive procedures as those envisaged in the OPIC, nor do its experts and judges specialise in child rights. Thus, ratifying the OPIC allows States to ensure that children can effectively access justice and ensure accountability for a broad range of child rights violations not necessarily envisaged in the regional human rights Conventions.

The OPIC also complements and adds to the African regional human rights system. Indeed, given the complementarity of the African Charter on Human and Peoples Rights with the UNCRC, ratifying the OPIC expands the scope of the violations of child rights which can be brought to the attention of child rights experts. Further, the follow-up mechanisms envisaged in the OPIC are key to ensure an effective implementation of the Committee's recommendations. For those States who have accepted both procedures, the international nature of OPIC may put additional pressure on the State to implement changes, following the Committee's adopted Views and recommendations.

For more information see [factsheet #1](#).



2. States should focus first on strengthening national child rights protection systems before ratifying the OPIC.

There is a common belief regarding the need to strengthen national child protection systems before ratifying the OPIC. However, in practice, the ratification process of the OPIC has actually allowed and accompanied the strengthening of national systems of protection.

Under the two procedures envisaged in the OPIC, the Committee can do a focused and required review of particular legislation, policy or practice causing, or potentially causing, violations. Thus, the OPIC enables the Committee to provide illuminating Views and recommendations to improve national protection systems. Further, the OPIC allows for State parties to have more regular communication and informal dialogue with the Committee (as opposed to what is envisaged in the reporting procedure). In this sense, the Committee can provide States with specialised technical assistance on a more regular basis. This cooperation and increased dialogue are key to strengthening national systems of child rights protection. Further, and as we have seen, several issues brought to the attention of the Committee were resolved simply through dialogue with States, which explains why many pending individual communications to be reviewed before the Committee were discontinued (10 out of 39 adopted decisions). The Committee has, for example, congratulated Denmark⁷¹ and Spain⁷² in two cases for granting asylum to a mother of six children and for allowing a Moroccan child to attend public school respectively. The positive resolution of the claims brought before the Committee in these two cases made it irrelevant to pursue the individual communications, which explains why they were discontinued.

For more information see [factsheet #1](#) and the [Roundtable Discussion report](#).



3. OPIC ratification allows for an international body (the Committee) to review national court rulings making it a fourth instance court.

There is a misconception that by ratifying the OPIC the Committee can act as a court of fourth instance able to analyse the facts and evidence of national cases. It is important to clarify that, under the OPIC, the Committee is only competent to consider possible violations of the rights guaranteed by the UNCRC, the OPAC and the OPSC. The OPIC does not make the Committee a fourth instance court. Indeed, the Committee has established that “it is for the national authorities to examine the facts and evidence and to interpret and enforce domestic law, unless their assessment has been clearly arbitrary or amounts to a denial of justice. It is therefore not for the Committee to assess the facts of the case and the evidence in place of

⁷¹ UN Committee welcomes Danish asylum for Syrian mother of six, 8 April 2020

⁷² UN Committee welcomes Spain's decision to allow Moroccan child to attend public school, 28 May 2020

the national authorities but to ensure that their assessment was not arbitrary or tantamount to a denial of justice and that the best interests of the child were a primary consideration in that assessment".⁷³

In this line of thought, by analysing the individual communications that have been submitted to the Committee we can see that out of the 39 adopted decisions, 17 have been inadmissible – almost half – setting the bar high regarding the admissibility criteria.

For more information see [factsheet #1](#).

4. Ratifying the OPIC will add a financial burden on my State.

The fear that OPIC ratification will be translated into an additional financial burden for States detracts many from ratifying the instrument. However, it should be noted that the OPIC is a procedural instrument and thus does not introduce any new substantive obligations for States. The OPIC does not need to be incorporated into domestic law. Indeed, States have already accepted all of the substantive obligations by becoming parties to the UNCRC and its first two Optional Protocols. Therefore, the OPIC does not require additional obligations from States parties. Rather, it provides a mechanism to ensure the commitment States made when they became Party to the UNCRC and that its first two Optional Protocols can be complied with and effectively implemented.

It is true that the increased engagement with the Committee under the OPIC can require some adjustments to be made at the national level. States parties to the OPIC have shared that it is important for States parties of the instrument to anticipate and have standard operating procedures in place to effectively respond to possible incoming communications from the Committee.⁷⁴ Yet, the increased exchange with the Committee should be seen as an opportunity to strengthen national protection of child rights. The effective implementation of the UNCRC requires visible cross-sector coordination to recognise and realise children's rights across Government, between different levels of government and between Government and civil society – including, in particular, children and young people themselves. The Committee emphasises that, in the context of the UNCRC, States must see their role as fulfilling clear legal obligations to each and every child. Implementation of the human rights of children must not be seen as a charitable process, bestowing favors on children.⁷⁵ Ultimately, the stronger the national children's rights protection system, the fewer cases that would be brought before the Committee.

⁷³ *C.E.v. Belgium*, CRC/C/79/D/12/2017 27 September 2018 , para 8.4 ; *C.R.v Paraguay*, CRC/C/83/30/2017, 12 March 2020, para 8.5

⁷⁴ Child Rights Connect, *Key Finding of the Roundtable Discussion: "Towards Better Implementation of the UN CRC through its Third Optional Protocol on a Communications Procedure"*, August 2019, pages 8-11.

⁷⁵ *General Comment No.5 (2003)*: General measures of implementation of the Convention of the Rights of the Child (art.4, 42 and 44, para .6), CRC/GC/2003/5, paras 11 and 27

The UN and its Treaty Body system are too resource constrained. As more States become party to the OPIC, the organisation and Committee will not be able to deal efficiently with an increase of incoming cases or inquiry requests under the OPIC.

5.

The growth of the UN treaty body system and the increase in ratifications is often raised as a big challenge for the system. Particularly, for OPIC ratification detractors, the resource constraints of UN treaty bodies and [delays in UN membership contributions by member States](#) put a question mark on the capacity for the organisation, including the Committee, to deal with an increasing number of incoming communications and inquiry requests, particularly as more States become party to the OPIC, and funding to the UN is not increased accordingly.

Adequate funding of the UN and its treaty body system is a crucial issue of importance. Indeed, the treaty bodies are at the core of the human rights system and the means through which States comply with their legal obligations regarding human rights commitments. In this sense, it is of utmost urgency that States fund the system adequately and it is their responsibility to do so for the system to work efficiently.

The argument that States should not ratify the OPIC as to not undermine the UN treaty body system is flawed and overlooks the central problem, which is that States are not adequately funding the system. There is currently no funding for inquiries. In this context, it is important to recall that there is room for improvement in the working methods of the UN treaty bodies and the initiatives being taken by treaty bodies and OHCHR. However, consistent with the 68/268 formula⁷⁶, Member States should provide adequate resources for the treaty body system, including adequate staff to support all aspects of the treaty bodies' work.⁷⁷

Increased OPIC ratification should be seen as a positive development and as a sign of the commitment of States to promote and protect child rights at the national level. To improve the system and efficiency of UN treaty bodies advocacy efforts should be redirected towards ensuring an adequate funding of the UN treaty bodies, including the Committee.

⁷⁶ The 68/268 formula refers to the approved budget that allowed the UN treaty bodies to meet for approximately 30% more time in 2015 than they did in 2013. This formula calls for the treaty bodies' resource needs to be recalculated every other year based on the number of reports and communications each of the treaty bodies have received from States in the recent past. [https://www.geneva-academy.ch/joomlatools-files/docmanfiles/Christen%20Broecker%20%20Resources%20and%20Reform%20Process%20\(good%20caution\).pdf](https://www.geneva-academy.ch/joomlatools-files/docmanfiles/Christen%20Broecker%20%20Resources%20and%20Reform%20Process%20(good%20caution).pdf)

⁷⁷ Joint NGO submission to the co-facilitators of the General Assembly review of resolution 68/268 on the human rights treaty body system 7 July 2020, <https://www.ohchr.org/Documents/HRBodies/TB/HRTD/CoFacilitationProcess/OtherStakeholders/CSOSubmission.pdf>



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