

# 10 years of OPIC - Pathways of Access to Justice for Children

## 10<sup>th</sup> Anniversary Symposium on the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC)

10<sup>th</sup> – 12<sup>th</sup> of April 2024  
Leiden, Netherlands

### I. Introduction

The [Leiden Children's Rights Observatory](#), together with the Petitions Unit of the Office for High Commissioner for Human Rights and the United Nations Children's Fund, is proud to host the symposium to commemorate the 10th anniversary of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure (OPIC), taking place from **April 10th to April 12th, 2024**. As we commemorate a decade of the OPIC, this symposium provides a unique opportunity for, children and youth, academics, professionals, government officials, and non-governmental stakeholders to come together, share their knowledge and experiences, and chart a path forward towards improved access to justice for children through the OPIC, and more states ratifying OPIC. Engaging in critical discourse and collaborative efforts can further advance the protection and promotion of children's rights worldwide.

### II. Background

OPIC was adopted by the United Nations General Assembly on December 19, 2011, and came into force in 2014. The OPIC established a mechanism allowing children, or their representatives, to submit complaints to the United Nations Committee on the Rights of the Child (CRC Committee) regarding violations of their rights.

The main objectives of the OPIC are to bring justice to children on an individual level, to enhance the implementation of the UN Convention on the Rights of the Child (CRC) and its Optional Protocols and to promote state accountability. The Preamble of the OPIC highlights the complementary role of reinforcing the national and regional mechanisms allowing children to submit complaints for violations of their rights and encourages the development of appropriate national mechanisms to enable children's access to effective remedies. The OPIC stands as the most recent optional protocol to establish a communications procedure within the UN Treaty Body system. It builds and expands upon the existing rigorous standards from other treaties, offering significant potential to enhance the implementation of the CRC and the realization of children's rights.

The OPIC outlines a mechanism for handling *individual* and *inter-state communications*, as well as *inquiries* into violations of children's rights. For children residing in State Parties that are parties to the OPIC, it grants them the ability to directly address the CRC Committee with communications i.e. complaints, regarding violations of their rights. These individual

communications must meet specific criteria outlined in Article 7 OPIC, including the requirement to exhaust domestic remedies, which underscores the significance of effective domestic remedies being available to children.

Since its entry into force on April 14, 2014, the OPIC has been ratified by only 50 State Parties and has 16 states who are merely signatories. However, 132 State Parties have taken no action making the ratification status significantly low, contrary to the CRC, which has near universal ratification status (*see image 1 below for geographical information*).

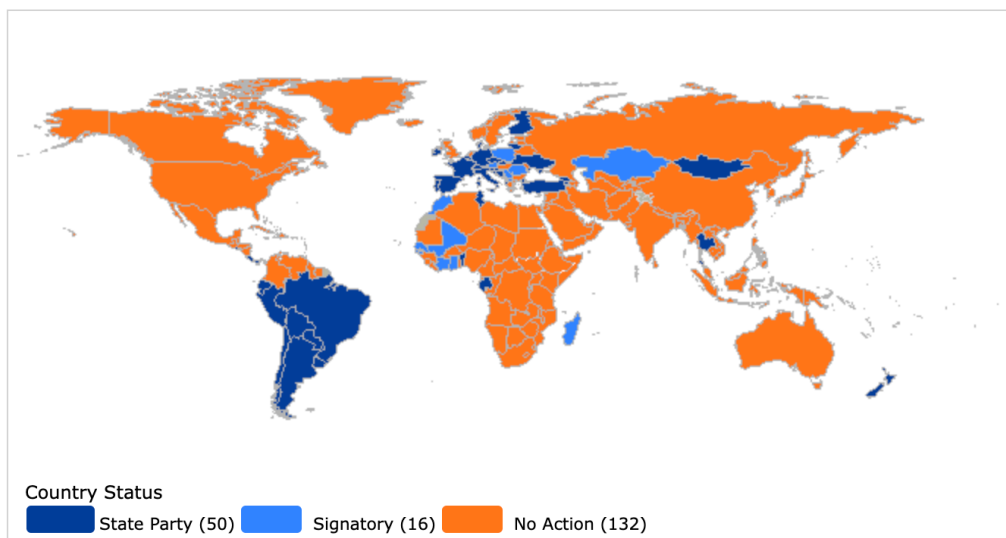


Image 1 via <https://indicators.ohchr.org/>

The CRC Committee has been receiving individual communications through the Petitions Unit of the Office of the High Commissioner for Human Rights (OHCHR) since 2018 and has initiated inquiries into grave or systematic human rights violations. As of September 2023, the Committee had registered 235 individual communications, issuing 122 decisions on these communications. Furthermore, there are 103 cases pending consideration. The Committee has commenced a follow-up procedure, under which 5 cases so far have been closed after full compliance of 4 of them. The Committee has also concluded one inquiry concerning Chile, with a report published in May 2020 ([Espejo Yaksic, 2020](#)). If one looks at the themes of the communications, many communications brought to the CRC Committee concern issues of migration, such as asylum claims and deportation. More recently, the scope of themes has significantly broadened, to themes like violence against children, health, sexual reproductive health rights, education, alternative care, international family law, and climate change.

However, despite the increased number of communications before the OPIC, the potential to stimulate broader changes in national legislation and systems for effective remedies and reparations for children can only be fully realized if more State Parties ratify the OPIC, thereby extending the mechanism's accessibility to children on a global scale. Moreover, the implementation of the CRC Committee's Views and recommendations is pivotal in order for access to justice under the OPIC to have meaning for the protection and promotion of children's rights.

According to a report published by Child Rights Connect in 2020<sup>1</sup>, while some State Parties have readily expressed support for OPIC, others have exhibited hesitation and reservations regarding the CRC Committee's capacity to manage the increased workload brought about by OPIC. Certain State Parties have undertaken reviews of their national justice systems before ratifying the OPIC, while others are awaiting the development of the CRC Committee's examination of individual communications to better comprehend the impact of the CRC Committee's recommendations on their obligations. Moreover, the report finds several key challenges. Amongst them is the fact that the OPIC remains largely unknown and misunderstood. The impact of the prevailing political pushback against human & children's rights is highlighted. Moreover, the report highlights the need for collective action together with civil society, children, national independent children's rights institutions, media and public officials.

Another challenge which underlies the challenges discussed above is that there is limited scholarship on the implementation and development of the OPIC. Further academic engagement can enable critical analysis of the effectiveness and the impact of the OPIC and increase understanding of factors that may counter States-Parties' inaction on the ratification front. Academic debate and expert discussion may also create awareness and garner support for the OPIC, and for access to justice for children more broadly.

Moreover, OPIC remains in need of legal interpretation. The growing body of jurisprudence of the CRC Committee is in need of rigorous scrutiny, and practices around the implementation of OPIC are in need of careful analysis. Having this need on mind the Leiden Children's Rights Observatory has convoked various leading scholars in the field from around the globe and produced over 30 [case notes](#), several [discussion pieces](#) and [scholarly papers](#) to promote these decisions and to open critical dialogue concerning them. However there are several areas which require further research. The Symposium aims to provide the opportunity to critically reflect on the most pertinent questions relating to access to justice for children internationally. It also targets to explore the impact of OPIC on access to effective remedies at the domestic level. The Symposium will address the following questions and leaves room further debate and reflections:

#### 1. Consistency and Interpretation:

- To what extent is the CRC Committee consistent in its interpretation and analysis of children's rights and its application of children's rights standards?
- To what extent is the CRC Committee consistent in its interpretation and application of the admissibility criteria?
- How does the CRC Committee engage with the admissibility criteria?
- How does the CRC Committee engage with remedies?
- What about cross-pollination of jurisprudence with other treaty bodies, regional human rights mechanisms, domestic mechanisms?

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<sup>1</sup> Report Key Findings of the Roundtable Discussion Towards Better Implementation of the UN CRC through its Third Optional Protocol on a Communications Procedure, Child Rights Connect 2019.

## 2. Stakeholder Involvement:

- What is the role for other stakeholders such as NGOs, CSOs, ICRI's?
- How have respondent governments tackled complaints of violations against them? Are there lessons to be found for 'reluctant ratifiers'?

## 3. Operational Challenges:

- Challenges behind the scenes – how does the CRC Committee deal with the influx of cases, the workload of the Petitions Unit connectedly the lack of financial and human resources?

## 4. Procedural Experiences:

- What are CRC Committee's experience with interim measures?
- What is the added value of OPIC – impact, outreach, individual/general, domestic remedies, access to justice agenda?

## 5. Child Participation:

- What about child participation and the child-sensitivity of the OPIC procedure (before, during and after)?
- How can the CRC Committee secure children's meaningful participation under the OPIC?

It is important to also highlight the role of children's rights practitioners in the implementation of the OPIC and in answering the questions above. In addition, one could learn from the experiences of practitioners, especially those who have brought cases to the CRC Committee and those connected to similar regional mechanisms such as the African Committee on the Rights and Welfare of the Child, to regional human rights tribunals, including the European Court of Human Rights and the Inter-American Court of Human Rights, or to domestic constitutional systems. Discussions on the evolution of other treaty bodies' jurisprudence, for example from the Human Rights Committee, The Committee on the Elimination of Discrimination against Women and the Committee on Economic and Social Cultural Rights, will prove useful. In addition, the growing body of knowledge concerning constitutional, public interest or strategic litigation will provide lessons for exploring the next ten years of the OPIC in operation and the strengthening of access to justice for children.

This Symposium aims to also serve as an opportunity to bring together all relevant stakeholders, including children and young people, to reflect together and chart a collective way forward. Combined efforts are essential to ensure that children's rights are respected, protected, and fulfilled, leading to the overall well-being and development of children worldwide.

### III. Objectives of the Symposium

The overall aim of the symposium is to take stock of 10 years of OPIC developments, to identify key challenges and ways forward concerning children's access to justice under OPIC, to define strategies to promote the OPIC among the CRC States Parties that have not yet ratified the OPIC and to develop a research agenda that bears relevance for academic scholarship, professionals and other stakeholders, including children. More specifically, the Symposium aim to offer the following:

1. **Room for reflection:** To take stock of 10 years of OPIC developments and to assess the impact of OPIC on children's rights globally, highlighting success stories and lessons learned.
2. **Academic scholarship:** To invite scholars to share their work on the OPIC (and related themes) and develop interest to engage in research around the OPIC, and access to justice for children more broadly. Further, it aims to create awareness around the Leiden Children's Rights Observatory as an open-access platform where scholars can actively engage with research around OPIC. In addition, it aims to contribute to the development of a (legal) commentary on the OPIC.
3. **A platform for practitioners:** To learn and share practical experiences under the OPIC and via domestic constitutional fora, regional mechanisms and other UN treaty bodies similar to OPIC to further ensure access to justice for children in practice.
4. **Awareness and Advocacy:** To engage with academics, practitioners and other stakeholders, including children, from around the world to raise awareness and strengthen advocacy for the ratification and implementation of the OPIC by countries that have not yet done so.
5. **Child-friendly Justice:** Engage with children and young people to further develop methods of making the work of the CRC Committee, their decisions (incl. the remedies provided) and their publications child-friendly and accessible.

#### IV. Events and Activities

To achieve these objectives, a series of activities and events are planned:

- **Main Event**
  - **Conference:** A high-level conference bringing together academics, practitioners and other experts to discuss the impact of the OPIC so far and share experiences, knowledge and creative ideas.
    - **Keynote Addresses:** Eminent scholars and practitioners will deliver keynote addresses on the historical context, achievements, and challenges of the OPIC.
    - **Panel Discussions:** Expert panels will explore various aspects of OPIC, including legal implications, practical experiences, and its impact on children's rights globally.
    - **Research Presentations:** academics, practitioners and experts will have the opportunity to present their findings related to the Protocol and engage in discussions with peers.
- **Side Event (s)**
  - **Inaugural lecture:** on April 12, 2023, at 16h15, Professor Ann Skelton will hold her inaugural lecture at Leiden University as Professor of Children's Rights in a Sustainable World. All participants are invited.
  - **Children's Rights Hackathon (TBC):** Children and child-led organizations, together with child participation experts and CRC Committee Working Group members on

Communications, will work together to develop child-friendly tools to make Views and processes of the CRC Committee accessible.

- **Follow up event (TBC)**

#### IV. Organization

The Symposium is organised by the Leiden Children’s Rights Observatory together with the Leiden Law Academy, in partnership with the Petitions Section of the Office of the High Commissioner for Human Rights and UNICEF.

#### Conference Coordinators

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