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# COMMITTEE ON THE RIGHTS OF THE CHILD

Towards a new communications procedure, and upcoming election of members



Photo: UN/Eskinder Debebe

The Committee on the Rights of the Child (the Committee) met during its last session in two chambers<sup>1</sup> from 13 September to 1 October 2010, and resumed its work in one chamber for the 56<sup>th</sup> pre-sessional working group (4 to 8 October 2010). In addition to reviewing 18 State reports during the 55<sup>th</sup> session, and conducting a preliminary review of 10 reports in the presence of NGOs and/or UNICEF during its pre-session, the Committee made headway with key developments in relation to the *Convention on the Rights of the Child* (CRC) and its other areas of work. These include the adoption of treaty-specific reporting guidelines; an expert meeting and the adoption of an 'elements paper' in relation to the new Optional Protocol to the CRC establishing a communications procedure; and a decision on themes for the next two days of general discussion.

As the NGO Group closely follows the elections of Committee members by encouraging State parties to nominate the most qualified experts from among their nationals, it has been actively involved in preparations for the up-coming elections (21 December 2010).

This article will focus on the new developments in the work of the Committee and the elections process. The analysis of the 55<sup>th</sup> session and 56<sup>th</sup> pre-session will be covered in the next issue of the Human Rights Monitor Quarterly (January 2011).

## A NEW OPTIONAL PROTOCOL TO THE CRC: NEGOTIATIONS ON A COMMUNICATIONS PROCEDURE START ON 6 DECEMBER 2010

In March 2010, the Human Rights Council (the Council) mandated the Open-ended Working Group on an Optional Protocol to the Convention on the Rights of the Child to draft the new Optional Protocol, and requested the Chairperson prepare a proposal as the basis for the negotiations.

On 6 August 2010, the Chairperson circulated a proposal for a draft optional protocol, which took into account the expert submissions and views provided during the first session of the Open-ended Working Group. It also considered the views expressed during expert consultations held in June 2010 with United Nations and civil society experts, including the Chairperson and a Vice-Chairperson of the Committee.

The draft uses agreed language from the optional protocols and/or provisions of the treaties, which have created the existing communications procedures under the core human rights treaties. It also offers new language, including a provision allowing collective communications by national human rights institutions, ombudspersons and NGOs.

On 1 October 2010, the Committee adopted a paper featuring its comments on the Chairperson's proposal for a draft Optional Protocol. This paper provides the Committee's comments on key articles of the proposal and makes suggestions to strengthen the draft. The Committee stressed that State parties to the Optional Protocol on Sale of Children, Child Prostitution, and Child Pornography (OPSC), and the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC), should not be given the option to exclude any of [the instruments] from the scope of the communications procedure, and strongly supported collective communications, including by non-ECOSOC NGOs.<sup>1</sup> Civil society also prepared a joint submission in response

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<sup>1</sup> The Committee worked for three sessions in two chambers in 2010, to reduce the backlog of reports.

to the draft, which was submitted through the NGO Group for the CRC.

The first negotiations by States of the optional protocol will be held from 6 to 10 December 2010 at Palais des Nations in Geneva, Switzerland. The resolution adopted in March 2010 by the Council, which mandated the drafting of the Optional Protocol, also provides for a second session of five days, which will be held in February 2011.

For more information on the Open-ended Working Group, including the proposal for a draft, the Committee's paper and the NGOs' joint submission, see <http://bit.ly/bRjQXO>. If you would like to find out more about the process, please contact Anita Goh ([goh@childrightsnet.org](mailto:goh@childrightsnet.org)).

## THE IMPACT OF THE NEW TREATY-SPECIFIC GUIDELINES ON REPORTING UNDER THE CRC, THE OPSC AND OPAC

In accordance with harmonised guidelines on reporting to the international human rights treaty bodies, the Committee adopted its own treaty specific reporting guidelines on 1 October 2010.<sup>2</sup> In addition to providing information on how to prepare a treaty specific report under the CRC, the guidelines explain how to incorporate information on OPSC and OPAC in the periodic reports.<sup>3</sup> This information is timely, as some States have started reporting on the CRC and its Optional Protocols, but have provided the information in a variety of ways, and in some cases insufficient information has been included on the Optional Protocols.

States which have not yet submitted their initial reports under the CRC, OPSC or OPAC, should continue to use the original reporting guidelines for their initial reports.<sup>4</sup> As there is a backlog of reports pending examination until early 2013, these guidelines will only affect States which have not yet submitted their reports.

The NGO Group will also be revising its reporting guidelines for preparation of alternative reports by NGOs, to inform them on how best to report on the CRC and its Optional Protocols. In the meantime, the existing guidelines still apply.<sup>5</sup>

2 The guidelines can be found at: <http://bit.ly/aVo1jm> and the annex at: <http://bit.ly/9qQwmu>.

3 State parties have to send initial reports on the OPSC and OPAC and then include follow-up information in the main periodic report on the CRC.

4 Initial reporting guidelines on the Convention; CRC/C/5 were adopted on 30 October 1991 and the Committee has adopted specific guidelines for OPSC; CRC/C/OPSC/2, (3 November 2006), and for OPAC; CRC/C/OPAC/2 (19 October 2007).

5 A guide for Non-Governmental Organizations Reporting to the Committee on the Rights of the Child, available at <http://bit.ly/c98b0a>.

## THE 2011 AND 2012 DAYS OF GENERAL DISCUSSION

During its 55<sup>th</sup> session, the Committee announced the themes for the next two days of general discussion, which will take place in September 2011 and 2012:

- Children with Parents in Prison (2011)
- Children in Migration Situations (2012)

The official titles, and information on how to contribute papers and participate in these days of discussion, will be posted on the Committee's web page and the NGO Group's website a few months before each meeting. These meetings are open to any interested parties, including representatives from governments, other treaty bodies, UN agencies, NGOs and national human rights institutions (NHRIs), as well as individual experts and children. The NGO Group will also circulate information through CRINMAIL.<sup>6</sup>

Days of general discussion provide an opportunity to foster a deeper understanding of the specific articles or topics related to the Convention and its Optional Protocols. The main outcome is a series of recommendations for States. Additionally, there may be recommendations that call for studies to be conducted by the UN General Assembly<sup>7</sup>; that make proposals for the drafting of new international instruments<sup>8</sup>; or that contribute to the drafting of General Comments<sup>9</sup>.

## CRC ELECTIONS: HOW KEY STAKEHOLDERS CAN BE INVOLVED IN THE PROCESS

To ensure a high level of expertise among the members of the Committee, the NGO Group continues to advocate for States to nominate and elect the most qualified experts.

In preparation for the 13<sup>th</sup> Meeting of State parties to the CRC (New York, 21 December 2010), which will elect nine members of the Committee whose terms of office are due to expire,<sup>10</sup> the NGO Group has encouraged States and NGOs to ensure the most qualified experts amongst their nationals are nominated. In order to ensure appropriate geographical representation, the NGO Group analysed the regional gaps amongst the nine members of the Committee who are not running for re-election.

In addition to the criteria set out in Article 43(2) of the CRC, that Committee members 'shall be of high moral standing

6 If you would like to subscribe to CRINMAIL, please go to the following website: <http://bit.ly/2fg47R>.

7 e.g. Study on Children in Armed Conflict and the Study on Violence against Children

8 e.g. OPAC and the Guidelines for the Alternative Care of Children

9 e.g. implementing child rights in early childhood; and the right of the child to express their views and to be heard. For an overview of the Committee's General Comments, see <http://bit.ly/9zkjP5>

10 The terms of the nine members will expire on 28 February 2011.

and of recognised competence in the field covered by this Convention', the NGO Group has developed a set of criteria following the monitoring of the Committee's work since its inception. These include:

- Demonstrated expertise in the field of human rights and particular commitment to respect for children's human rights
- A variety of complementary professional backgrounds
- Independence and impartiality
- The ability to devote sufficient time to the work of the Committee
- Experience working with a broad range of stakeholders (UN agencies, NHRIs, NGOs and children)
- An awareness and sensitivity to cultural differences
- Fluent in one of the three working languages (English, French or Spanish)
- Experience relevant to the Committee's likely new role of considering communications/complaints from children and those acting on behalf of them, in light of the current drafting of the new Optional Protocol

### The role of NGOs in the nomination and election processes

The NGO Group wrote to States and national NGOs/coalitions to mobilise them to nominate or advocate for the nomination of the most suitable candidates. In order to inform the NGOs on the role they could play at national level, it circulated its fact sheet on elections.<sup>11</sup> Following the nomination of candidates, the NGO Group wrote to national and international NGOs<sup>12</sup> working in the countries, to receive feedback

<sup>11</sup> <http://bit.ly/ctjgOL>.

<sup>12</sup> This is not possible for all the countries which have nominated candidates, as the NGO Group does not have contacts with independent NGOs in all the countries.

on how the candidates match the criteria. Once this information was collected, the NGO Group contacted the States to provide them with supplementary information on the candidates. The NGO Group does not promote any one candidate over another.

On 21 December, 24 candidates will be elected for the nine available seats on the Committee. The election of strong candidates, well versed in and committed to the promotion and protection of children's rights, will be testament to the regard in which the international community holds the Committee for the realisation of children's rights.

### Giving the candidates a chance to share their views

For the first time in the CRC elections, the NGO Group and CRIN joined forces to interview nominees. This provided candidates with the opportunity to present their experience in children's rights, what they can contribute to the work of the Committee, what they consider to be the key issues in child rights, and their vision for the Committee. They were interviewed on a voluntary basis and all the posted interviews have been checked and approved by the relevant candidates. The outcome of their interviews can be found on the following website:

<http://bit.ly/9z7nSw>. ■

## Facts about the Committee

Number of members:	18
Treaties it covers:	Convention on the Rights of the Child (CRC), Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) and Optional Protocol on the Involvement of Children in Armed Conflict (OPAC)
Total number of ratifications:	Signatories: 85. State Parties: 173
NGO participation:	With a 3-hour pre-session per country, the Committee has one of the best models for NGO involvement in the reporting process
General Comments:	12 adopted (see <a href="http://bit.ly/9zjkP5">http://bit.ly/9zjkP5</a> ) and three under development