

THAILAND

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

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1. Background

A ‘communications procedure’¹ empowers individuals to protect their human rights under international law.² Most human rights treaties are often followed by an optional protocol, providing for a communications procedure, which creates additional legal mechanisms in the treaties. Unfortunately, the Convention on the Rights of the Child (“CRC”)³ is different from all other human rights treaties in that it lacks such an optional protocol. This represents a loophole in the effective enforcement of provisions of the CRC through the United Nations Committee on the Rights of the Child (“UNCRC”).⁴ Although there are numerous international complaints mechanisms under the international human rights treaties and the

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¹ Office of the High Commissioner for Human Rights, Human Rights Treaty Bodies - Individual Communications, available at <http://www2.ohchr.org/english/bodies/petitions/individual.htm> (last visited on Mar. 2, 2012).

² T. Buergenthal, *The U.N. Human Rights Committee*, 5 MAX PLANCK Y.B. UNITED NATIONS L. 341-398 (J. Frowein & R. Wolfrum eds., 2001). See also E. Stamatopoulou, *The Development of United Nations Mechanisms for the Protection and Promotion of Human Rights*, 55 WASH. & LEE L. REV. 687 (1998).

³ See Convention on the Rights of the Child, G.A. Res. 44/25, Annex 44, UN GAOR, 61st plen. mtg. Supp. No. 49, U.N. Doc. A/44/49, at 167 (Nov. 20, 1989); 1577 U.N.T.S. 3; 28 I.L.M. 1456 (1989). See generally S. DETRICK ET AL., THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: A GUIDE TO THE “TRAVAUX PRÉPARATOIRES” 100-631 (1992).

⁴ K. McSweeney, *The Potential for Enforcement of the United Nations Convention on the Rights of the Child: The Need to Improve the Information Base*, 16 B.C. INT’L & COMP. L. REV. 467 (1993). HOWEVER, CRC is commonly hailed for its embrace of the full range of human rights, inter alia, civil, political, economic, social and cultural. See also G. van Bueren, *Committee on the Rights of the Child: Overcoming Inertia in this Age of No Alternatives*, in SOCIAL RIGHTS JURISPRUDENCE: EMERGING TRENDS IN INTERNATIONAL AND COMPARATIVE LAW 569 (M. Langford ed., 2008); J. Doek, *The Protection of Children’s Rights and the United Nations Convention on the Rights of the Child: Achievements and Challenges*, 22 ST. LOUIS U. PUB. L. REV. 235 (2003).