CHAPTER TWO

THE CRC COMMITTEE SITUATED WITHIN THE UNITED NATIONS
HUMAN RIGHTS’ APPARATUS

3. Like most institutions dealing with human rights at the international level, the CRC Committee operates within the framework of the United Nations. The UN activities in the domain of human rights are carried out by a rather opaque ensemble of procedures and organs.5

4. In general, the UN organs are classified on the ground of their juridical basis: ‘charter-based organs’ on the one hand and ‘treaty-based organs’ on the other hand. The first group entails the six principal organs,7 the functional commissions of the Economic and Social Council8 and the sub-commissions founded by these functional commissions.9 Among those, the Commission on Human Rights is the central human rights body. The ‘treaty-based organs’


7 The General Assembly, the Economic and Social Council, the Security Council, the International Court of Justice, the Trusteeship Council and the Secretariat (Secretary-General).

The ‘High Commissioner for Human Rights’ (a function created by the General Assembly in December 1993) carries out the good offices – function in the field of human rights on behalf of the Secretary-General. He or she is the UN official with principal responsibility for human rights activities and is responsible for promoting and protecting human rights all over the world (currently, Louise Arbour takes up the mandate of High Commissioner). The ‘Office of the High Commissioner for Human Rights’ (former Centre for Human Rights) implements the policies of the High Commissioner. On the functioning of this office and the role of the High Commissioner, see B.G. Ramcharan, The United Nations High Commissioner for Human Rights, the Challenges of International Protection (The Hague, Kluwer Law International, 2002), 250 p.


9 The most important one is the Sub-Commission on Prevention of Discrimination and Protection of Minorities.
are the bodies that were established by specific treaties. The CRC Committee is classified under this group. According to Alston, both types of organs mainly distinguish themselves from each other as far as their mandate and attitude with regard to the States are concerned. The ‘treaty-based organs’ bear the responsibility for monitoring the implementation of the provisions of the treaties concerned. The ‘charter-based organs’ have a much broader mandate to promote awareness, to foster respect, and to respond to violations of human rights standards. Furthermore, the ‘treaty-based organs’ mainly take a non-conflicting stance vis-à-vis the States Parties, whereas the ‘charter-based organs’ take strongly conflicting stances whenever needed. Another distinction between both types of organs is that ‘treaty-based organs’ are expert bodies with members serving in their personal capacity whereas most of the ‘charter-based organs’ are political institutions, consisting of government representatives, who act in accordance with their government’s policies.

5. These bodies have a set of procedures at their disposal, such as State reporting procedures, inter-state communications procedures, individual communications procedures, country procedures, thematic

---

10 The Committee on Elimination of Racial Discrimination, the Committee on Elimination of Discrimination against Women, the Human Rights Committee, the Committee against Torture, the Committee on Economic, Social and Cultural Rights, the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (which held its first session in March 2004) and the Committee on the Rights of the Child.


12 Except for the International Court of Justice, which is a judicial organ.

13 The reporting procedure is laid down in Article 40 of the CCPR, Articles 16–17 of the CESCRI, Article 9 of the CERD, Article 18 of the CEDAW, Article 19 of the CAT, Article 44 of the CRC and in Article 73 of the CMW.


15 See for example the first Optional Protocol to the CCPR, the Optional Protocol to the CEDAW, Article 14 of the CERD, Article 22 of the CAT, and Article 77 of the MWC. See also the draft Optional Protocol to the CESCRI, which is still under consideration.

16 The intention of country procedures is to thoroughly examine flagrant violations of human rights in a certain country. This can be realized by delegating special rapporteurs or individual experts to the country concerned or by founding a working group. See http://www.unhchr.ch/html/menu2/7/a/cm.htm.