

UNITED NATIONS



Human Rights System



SC

ECOSOC

SG

GA

~~IC~~

ICJ



# GENERAL ASSEMBLY

3<sup>rd</sup> Committee: Social, Humanitarian & Cultural

6<sup>th</sup> Committee: Legal Issues

Human Rights Council 2006-

Committee Against Torture

Committee on the Elimination of Discrimination Against Women

Committee on the Elimination of Racial Discrimination

Committee on the Rights of the Child

Committee on the Protection of the Rights of All Migrant Workers  
and Members of Their Families



# SECURITY COUNCIL

International Criminal Tribunal for the Former Yugoslavia

International Criminal Tribunal for Rwanda

Working Group on Children and Armed Conflict

Peacekeeping Operations & Missions



# ECONOMIC & SOCIAL COUNCIL

Committee on Economic, Social, & Cultural Rights

Commission on the Status of Women 1946-

Committee on Non-Governmental Organizations [NGOs]

Permanent Forum on Indigenous Issues

Commission on Human Rights 1946 - 2006



# SECRETARIAT

Secretary General

Office of the High Commissioner for Human Rights

Office of the Special Advisor to the Secretary General on the Prevention of Genocide



# Charter-based Bodies

- Are “...those (a) whose creation is **directly mandated** by the **UN Charter**,...or (b) which have been **authorized by** one of those bodies,....” (STEINER, ALSTON, & GOODMAN, HUMAN RIGHTS IN CONTEXT 737 (2007)).
- The Political Organs:
  - Security Council
  - Secretariat
  - General Assembly
  - Economic and Social Council



# Human Rights Council Methods

1. Special Procedures
2. Universal Periodic Review
3. Complaint Procedure
4. Special Sessions



# Human Rights Council Methods

## 1) “Special Procedures”

- Coordination Committee of Special Procedures
- Thematic & Country Mandates
  - “Special Rapporteur”
  - “Independent Expert”
  - Working Groups usually composed of five independent experts
  - “Special Representative of the Secretary-General” and “Representative of the Secretary-General”.



# Human Rights Council Methods: Special Procedures

## – Communications

- Receive information, check it's accuracy, communicate it to the Government through diplomatic channels
- Standards of admissibility
  - Written
  - Sender's identity & address
  - Description of violation
  - No anonymous communications
  - May not be based only on reports of mass media
- Urgent Appeals for time-sensitive violations of a very grave nature
- Letters of Allegation for violations that have already occurred



# Human Rights Council Methods:

## Special Procedures

### – Country Visits (Missions)

- Invitations & Requests for Visits
- Preparation
  - OHCHR country assessment
  - Contacts with UN Country Team (UNCT)
  - Security Arrangements
- Conduct of Visit
  - Begin & end with meetings with Government
  - Meet NGOs, victims, witnesses



# Human Rights Council Methods:

## Special Procedures

### – Report

- Contains the itinerary, description of the principal meetings, an analysis of the situation, and a set of conclusions and recommendations directed towards the Government and other relevant actors.
- Sent to Government for corrections
- Published separately
- Submitted to HRC, 1/3 to GA, & a few to SC
- Interactive dialogue
- Country mandate reports  
<http://www2.ohchr.org/english/bodies/chr/special/countries.htm>
- Thematic mandate reports  
<http://www2.ohchr.org/english/bodies/chr/special/themes.htm>



# Human Rights Council Methods: Special Procedures

- Thematic Studies
- Dissemination of Information
  - All mandate-holders have a webpage (<http://www2.ohchr.org/english/bodies/chr/special/index.htm>) on the OHCHR website that provides information about the mandate, links to their reports and other relevant documents.
  - OHCHR publishes
    - “Special Procedures Bulletin” quarterly and
    - “Facts and Figures” annually



# Human Rights Council Methods:

## Special Procedures

- Follow up to communications
  - Both backward & forward looking
  - Interactive dialogues
- Follow up to country visits
  - Shape recommendations
  - Follow up initiatives



# Human Rights Council Methods

## 2) Universal Periodic Review

- All 192 member states
- Every 4 years
- Conducted by UPR Working Group = all 47 members of HRC
- Any member state can participate in the dialogue
- A “troika” of states = rapporteur



# Human Rights Council Methods: UPR

## – Reviews are based on:

- information provided by the State under review, which can take the form of a “national report”;
- information contained in the reports of independent human rights experts and groups, other Special Procedures, UN treaty bodies, and other UN entities;
- information from other stakeholders including non-governmental organizations and national human rights institutions.



# Human Rights Council Methods: UPR

## – Conduct of Reviews

- Take place at UPR Working Group meeting.
- Any UN Member State can pose questions or make comments or recommendations to the States under review.
- Troikas set the agenda and chair the meeting.

## – NGOs can participate by

- Contributing information to the “other stakeholders report” (the shadow report);
- Attending UPR Working Group sessions; or
- Making statements at the HRC session at which the outcome of the State reviews are considered.



# Human Rights Council Methods: UPR

- Reviews are based on a state's adherence to:
  - the UN Charter;
  - the Universal Declaration of Human Rights;
  - human rights instruments to which the State is party;
  - voluntary pledges and commitments made by the State (e.g. national human rights policies and/or programs implemented); and,
  - applicable international humanitarian law.



# Human Rights Council Methods: UPR

- The “troika” prepares an “outcome report.”
- The reviewed state can accept or reject report’s recommendations.
- The Working Group adopts the report and sends it to the HRC.
- All HRC docs are at <http://ap.ohchr.org/Documents/gmainec.aspx>



# Human Rights Council Methods: UPR

## – Follow-up

- The international community assists in implementing recommendations with capacity-building and technical assistance [Voluntary Fund for Financial and Technical Assistance] with the consent of the country concerned.
- The HRC will decide if any specific follow-up is necessary.
- After exhausting all efforts to encourage a State to cooperate with the UPR, the Council will address cases of persistent non-cooperation appropriately.



# Human Rights Council Methods

## 3) Complaint Procedures

- Based on the old 1503 procedure
- “address consistent patterns of gross and reliably attested violations of all human rights... in any part of the world and under any circumstances.”
- Confidential & timely



# Human Rights Council Methods: Complaint Procedures

## – Working Group on Communications

- Membership

- Appointed by the HRC Advisory Committee
- Five independent and highly qualified experts
- Three year term (renewable once)
- Geographically representative of the 5 regional groups

- Functions

- Assesses admissibility and merits of complaints
- Transmits case to the Working Group on Situations, keeps the case under review or dismisses it.



# Human Rights Council Methods: Complaint Procedures

## – Working Group on Situations

- Membership

- Five members appointed by the regional groups from among the States members of the HRC for one year.

- Functions

- Examines the complaints;
- Reports to HRC on consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms; and
- Recommends what action to take.

- All HRC docs are at

<http://ap.ohchr.org/Documents/gmainec.aspx>



# Human Rights Council Methods: Complaint Procedures


- Don't get confused!
- The HRC and the HRC Special Procedures have a complaint mechanisms and five of the treaty based bodies accept individual complaints too.



# Human Rights Council Methods:

## Complaint Procedures: Admissibility

- A complaint is admissible, unless:
  - Is politically motivated
  - Object not consistent with applicable HR instruments
  - Is based solely on reports of the mass media
  - Domestic remedies have not been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.



# Human Rights Council Methods:

## Complaint Procedures Outcomes

### – Options:

- Discontinue the consideration of the case;
- Keep a situation under review, and request the State concerned to provide further information;
- Keep a situation under review and appoint an independent expert to monitor the situation and report back;
- Continue consideration of the matter in public; or
- Recommend that the Office of the High Commissioner for Human Rights (OHCHR) provide technical assistance.



# Human Rights Council Methods

## 4) Special Sessions

- The HRC “...shall be able to hold special sessions, when needed, at the request of a member of the Council with the support of one third of the membership of the Council...”



# Treaty Bodies

- Are those that “...have been created by a range of **other human rights treaties originating in UN processes.**” (Steiner, Alston, & Goodman, HUMAN RIGHTS IN CONTEXT 737 (2007)).
- Treaty Bodies Database:
  - <http://tb.ohchr.org/default.aspx>



# Treaty Bodies

- Human Rights Committee (ICCPR) (1966, 1976)
- Committee on Economic, Social and Cultural Rights (CESCR) (1966, 1976)
- Committee on the Elimination of Racial Discrimination (CERD) (1965, 1969)
- Committee on the Elimination of Discrimination against Women (CEDAW) (1979, 1981)
- Committee against Torture (CAT) (1984, 1987)
- Subcommittee on Prevention of Torture (SPT) (2002, 2006)
- Committee on the Rights of the Child (CRC) (1989, 1990)
- Committee on Migrant Workers (CMW) (1990, 2003)
- Committee on the Rights of Persons with Disabilities (CRPD) (2006, 2008)
- Committee on Enforced Disappearance (CED) (2006, 2010)



# Treaty Bodies: Commonalities

- Each treaty is administered by a committee that is named after the treaty except the Human Rights Committee.
- Each committee consists of 10 – 25 independent experts who serve 1 term of 4 or 5 years and may be re-elected once.
- Each treaty requires States parties to submit regular reports except the Subcommittee on Prevention of Torture (SPT).



# Treaty Bodies Methods

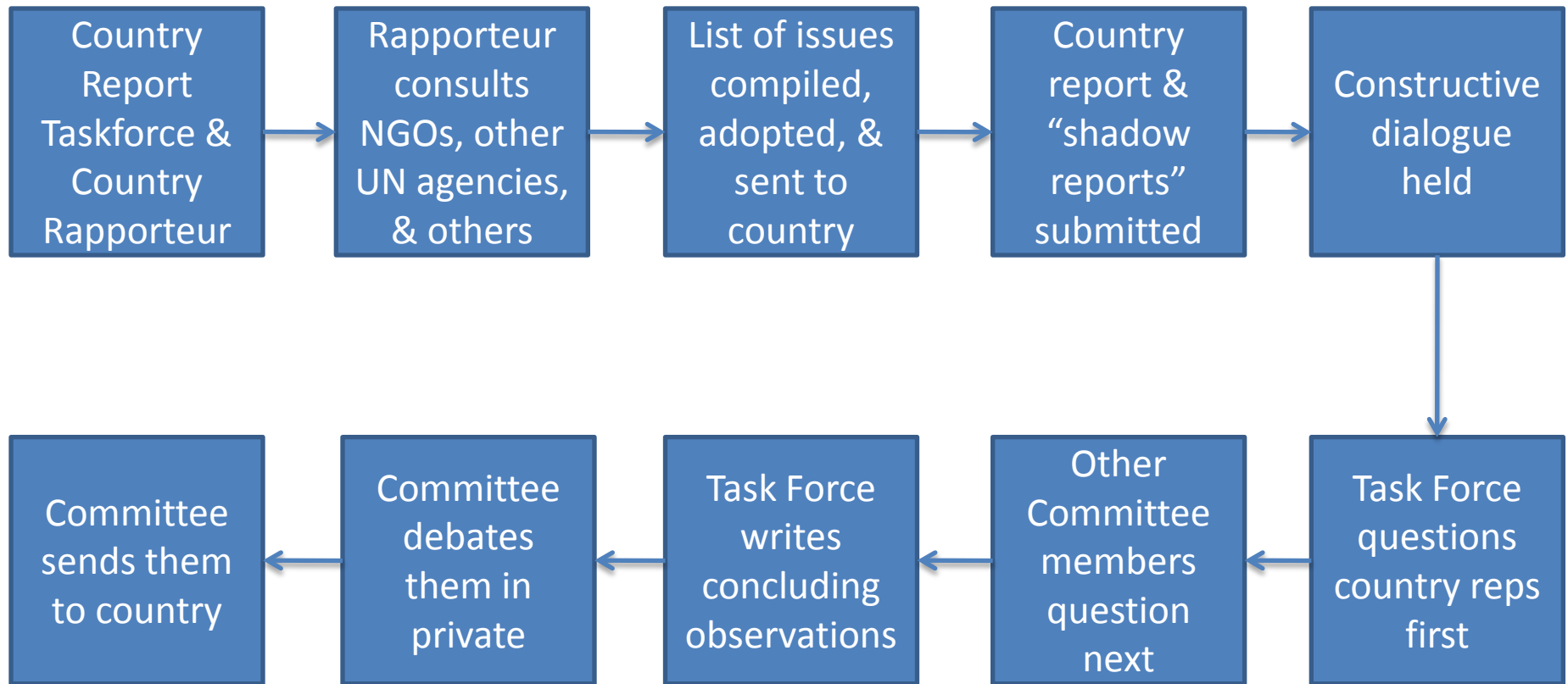
- Regular Reports <http://tb.ohchr.org/default.aspx>
- Interstate communications
- Individual communications  
<http://www2.ohchr.org/english/bodies/complaints.htm>
- Fact Finding
- General comments  
<http://www2.ohchr.org/english/bodies/treaty/comments.htm>



# Treaty Bodies Methods: Regular Reports

- Required by the treaties
- The initial report is usually due 1 or 2 years after acceptance of the treaty.
- Periodic reports are usually due every 4 – 5 yrs.
- Some committees may request reports whenever it seems appropriate.
- Reports consist of a “common core document,” a treaty specific document, & subsequent periodic documents

# Treaty Bodies Methods: The Reporting Process





# Treaty Bodies Methods: Follow-up

- Committee requests country report on what improvements it has made on the issues addressed in the concluding observations at any time before the next scheduled report.
- A Special Rapporteur for Follow-up on Concluding Observations examines the State's response and reports to the Committee.
- The Committee may ask for a Special Report from the country.



# Treaty Bodies Methods: No Report? No Problem.

- If a country does not submit its report:
  - The Committee may consider the situation without:
    - A country report or
    - Country representatives
  - The Committee issues concluding observations
- The Committee
  - informs the country of
    - its intention &
    - the materials it will use.
  - The meeting is closed.



# Treaty Bodies Methods: Interstate Complaints

- Have never been used in the UN.
- People who live in glass houses shouldn't throw stones and they don't.
- States may use informal diplomatic methods to complain to another state about a particular human rights practice.
- Even fewer than 20 such complaints have been made in Council of Europe.



# Treaty Bodies: Individual Complaints

1. Convention on Civil & Political Rights (CCPR) (Human Rights Committee)
2. Convention on the Elimination of Racial Discrimination (CERD)
3. Convention on the Elimination of Discrimination against Women (CEDAW)
4. Convention against Torture (CAT)
5. Convention on Migrant Workers (CMW)
6. Convention on the Rights of Persons with Disabilities (CRPD)

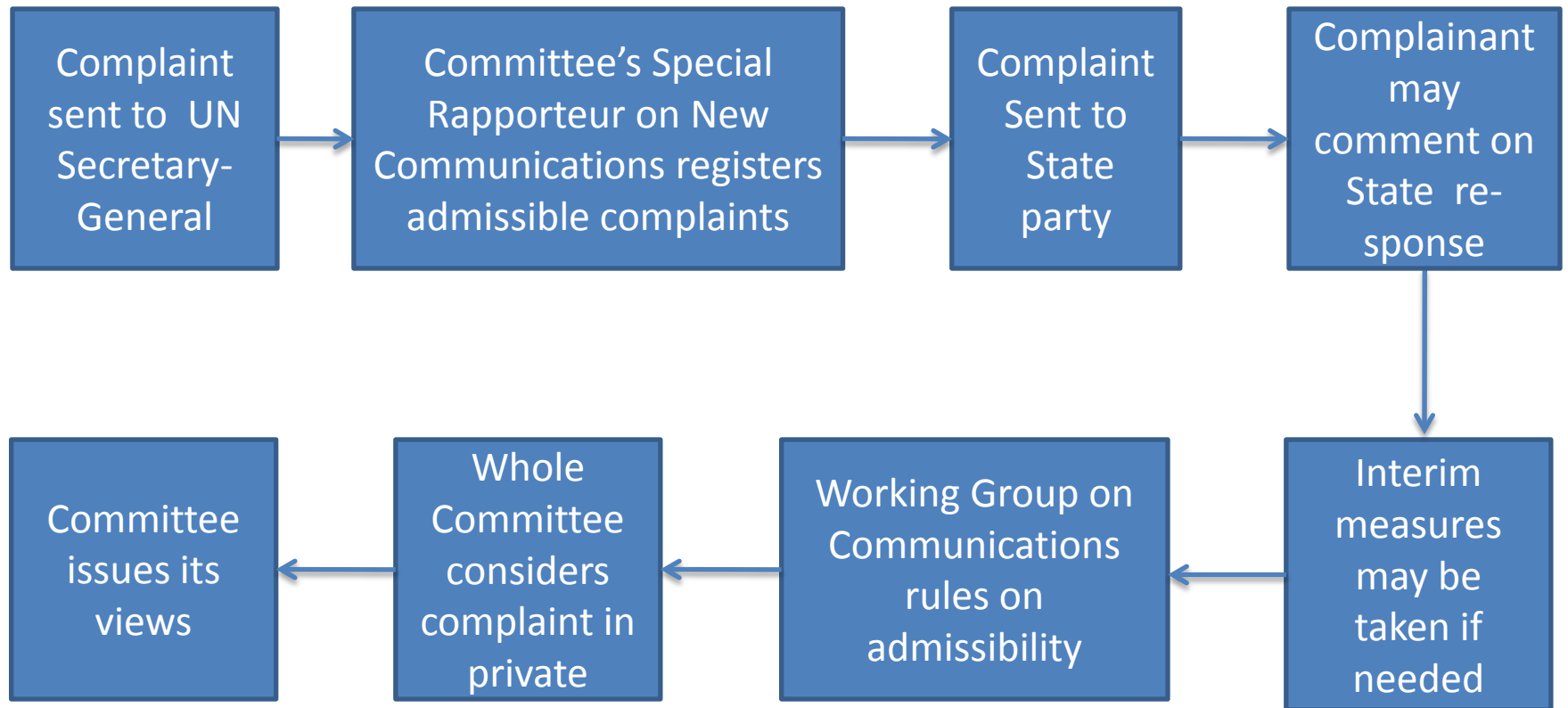


# Treaty Bodies Methods:

## Individual Complaints Admissibility

- Complainant must be an individual or a representative with close personal contact with the victim or must be the alleged victim.
- A provision of the treaty must have been violated.
- The State must be a party to the treaty or protocol.
- The complaint must be substantiated.
- The complainant should exhaust local remedies if practical.
- Should not be filed or heard in another international forum before or at the same time as the complaint is in a UN treaty body.

# Treaty Bodies Methods: Individual Complaints Procedures





# Treaty Bodies Methods: Individual Complaints: Weaknesses

- No examination of either the parties or witnesses
- No confrontation of parties
- No independent fact-finding by the Committee
- No understanding of legal effect of Committee's views.



# Treaty Bodies Methods: Subcommittee on the Prevention of Torture Methods

- visits all places of detention in States parties
- makes confidential reports to those states
- provides assistance and advice to both States parties and National Preventive Mechanisms (“NPM”) (Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, art.3, Dec. 18, 2002, 42 ILM 26 (2003)).
- Makes a public annual report



# Treaty Bodies Methods: Fact-Finding or Inquiry

- It is just what it sounds like, the finding of facts through research and visits.
- Visits require that the state is a party to the treaty and an invitation from the party.
- UN treaty bodies use it in response to a report of incipient abuse or to the invitation of a government or to their schedule or to a thematic need.
- They may use it to prevent future abuses.



# Treaty Bodies Methods: General Comments

- “... Are a treaty body's interpretation of the content of human rights provisions, on thematic issues or its methods of work. General comments often seek to clarify the reporting duties of State parties with respect to certain provisions and suggest approaches to implementing treaty provisions. Also called ‘general recommendation’ (CERD & CEDAW).”



# Human Rights Council Methods

1. Special Procedures
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# Summary:

## HRC Methods & Documents

- **Special Procedures**
  - Communications wth gov'ts Spec.Rap. Annual Rept to HRC Add'm 1
  - Country visit Reports linked to Spec. Pro. Webpage (<http://www2.ohchr.org/english/bodies/chr/special/visits.htm> )
  - Spec. Rap. Annual Rept to HRC contains summaries of all the Spec. Rap.'s activities linked to Spec. Pro. Webpage (<http://www2.ohchr.org/english/bodies/chr/special/visits.htm> )
- **Complaint Procedure**
  - Communications wth gov'ts Spec.Rap. Annual Rept to HRC Add'm 1



# Summary:

## HRC Methods & Documents

- **Universal Periodic Review**
  - UPR Webpage  
(<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx> )  
under Documentation
  - Search Charter Bases Bodies Database  
(<http://ap.ohchr.org/Documents/gmainec.aspx>)
    - Nat'l Rept
    - Corrigendum
    - Compilation of UN Information
    - Summary of Stakeholders' Information
    - Questions submitted in advance
    - Outcome
      - Working Group Rept
      - Addendum
      - Decisions
    - Draft Rept of HRC
    - Implementation Rept



# Summary:

## HRC Methods & Documents

- **Special Sessions**
  - All documents linked from HRC webpage (<http://www2.ohchr.org/english/bodies/hrcouncil> )
    - Documents
      - Reports
      - Resolutions
      - Decisions
      - Notes Verbale
    - Feature Stories
    - Statements
    - NGO Written Materials
      - Oral Statements
    - Background Information
    - General Information
    - Press Releases
    - Webcast



# Summary:

## Treaty Bodies Methods & Documents

- Regular Reports
- Interstate communications
- Individual communications
- Fact Finding
- General comments



# Summary:

## Treaty Bodies Methods & Documents

### ■ Regular Reports

- Outside Experts
- OHCHR Report
- List of Issues
- Country Report & Core Document
- Constructive Dialogue
- Concluding Observations are published separately and linked from the committee's webpage and sometimes in the Sessional / Annual Committee Rept to the General Assembly



Published separately and linked from "Sessions" on committee's webpage



# Summary:

## Treaty Bodies Methods & Documents

- Interstate communications
- Individual communications – Search under Jurisprudence in Treaty bodies Database & Sessional/Annual Committee Rept to the General Assembly vol 2
  - Admissibility Standards see Hum. Rts. Bodies – Individual Communications (<http://www2.ohchr.org/english/bodies/petitions/individual.htm> )
  - Complaint
  - Country Response
  - Complainant Comment on Country Response
  - Interim Measures Request
  - Response to Interim Measures Request
  - Views or Final Views



# Summary:

## Treaty Bodies Methods & Documents

- Fact Finding (Inquiry) are published separately & linked to each committee's webpage
- General comments are published separately & linked to each committee's webpage

**Finito**