

CTI/UNCAT Implementation Tool 1/2017

STATE STRATEGIES TO PREVENT AND RESPOND TO TORTURE AND OTHER ILL-TREATMENT OR PUNISHMENT

Putting in place measures to prevent and eradicate torture and other ill-treatment in all its forms, and which provide redress for victims, takes time. Ratifying the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) is just the start of a process of ongoing implementation and improvement leading to more efficient and fairer administration of justice, improved rule of law and governance, strengthened independence of the judiciary, and a safer and freer society. Because UNCAT does not prescribe how its various articles are to be implemented, each State party is free to develop laws, policies, practices and mechanisms that reflect and respond to their own unique national context and character. Preparing a strategy (or action plan) can help to identify and plan the specific short-, mid- and long-term steps proposed to prevent torture and other ill-treatment or punishment.

Strategies aimed at torture prevention have sometimes been developed during reform initiatives, or in response to a particular incident that exposed some weakness in policy or practice, or to effect positive change during a period of transition. Even in the absence of such triggers, torture prevention strategies have been put in place to strengthen the rule of law and protection for individuals and to develop good relations between citizens and the State authorities.

Different approaches to strategies have been adopted by States. Some States have developed national torture prevention strategies either as a specific strategy or as part of a broader human rights national action plan. Others have subsumed elements relating to torture prevention within national development plans, including in relation to implementing the Sustainable Development Goals (SDGs). In federal or other decentralised States, strategies may be developed at a federal level and/or at the sub-national levels. Also at a practical level, operational plans of specific departments or services have incorporated torture prevention objectives and targeted actions. These approaches help prevent torture and ill-treatment or punishment. For the purposes of this tool, they are referred to as “torture prevention strategies”.

NATIONAL
TORTURE
PREVENTION
STRATEGY

NATIONAL
HUMAN RIGHTS
ACTION PLAN

NATIONAL
DEVELOPMENT
PLAN

AGENCY
OPERATIONAL
PLANS



BENEFITS OF DEVELOPING TORTURE PREVENTION STRATEGIES

Torture prevention strategies can assist in:

- ✔ identifying short-, mid- and long-term goals
- ✔ responding effectively to a particular incident, recovery after an historical period of abuse or in post-conflict and transitional contexts
- ✔ building capacity within and across departments
- ✔ strengthening the administration of justice, rule of law, and independence of the judiciary
- ✔ improving practices on the part of specific authorities, such as law enforcement, security, prisons, or health sectors
- ✔ improving coordination and “joined up thinking” across ministries, departments and services
- ✔ preparing budgets and operational plans to apply resources where they are most needed
- ✔ identifying the need for technical support and capacity building from donors and external experts
- ✔ preparing requests for assistance and funding
- ✔ highlighting publicly where steps have been taken and progress made

ELEMENTS TO CONSIDER WHEN DEVELOPING A TORTURE PREVENTION STRATEGY



When developing a torture prevention strategy it may be useful to consider and reflect upon the five broad themes that the principal obligations of UNCAT fall under; these provide guidance on the range of issues to be considered.

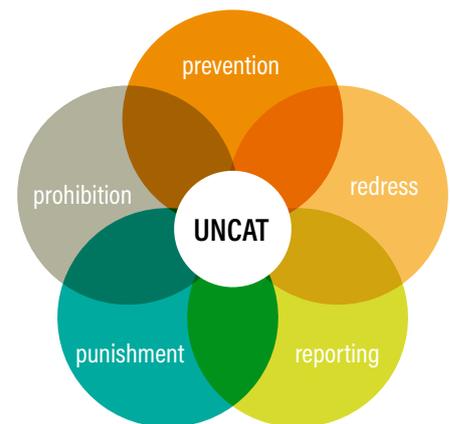
From the beginning it is useful to consider how and by whom the strategy will be implemented in practice, including identifying the government entities with overall responsibility for implementing different parts of the strategy.

Achieving the goals will be easier if they are action-orientated and “SMART” i.e. specific, measurable, achievable, realistic and time-bound. Therefore it is useful if a torture prevention strategy contains the following elements:

- **An overview of the current situation, identifying specific areas to be addressed by the strategy**
- **Concrete details of the actions that will be taken**
- **An indication of who is to take which actions**
- **The timeframe in which each action will be taken**
- **Details of how progress will be monitored and evaluated**

Good strategies indicate those actions to be taken in the short and medium term and those which will be longer term goals.

Periodically reviewing progress on the implementation of a torture prevention strategy can provide an opportunity to highlight achievements made to date and ensure the strategy remains relevant. A review can also critically evaluate and build upon lessons learnt from previous actions. If a strategy sets out clearly defined indicators of progress, including timeframes, this can make the process of review easier. Therefore it is helpful to consider how the strategy will be reviewed at the outset of its development.



PRINCIPAL OBLIGATIONS OF THE UNCAT

KEY STEPS



STRATEGY DEVELOPMENT

1

Agree timeline for strategy development and identify lead person or agency

2

Review relevant laws, policies, regulations and practices

3

Consultation and drafting

4

Adopt strategy

IMPLEMENTATION

5

Raise awareness of the strategy and its goals

6

Build partnerships and hold consultations on implementation

7

Conduct training

8

Revise and/or implement legislation, policies or regulations

9

Review and where necessary revise procedures

10

Allocate resources and build capacity of institutions and staff

11

Develop or source tools and materials to assist implementation

12

Seek technical assistance from others

REVIEW

- Periodically review goals against delivery
- Revise strategy when necessary
- Publicise progress

TAKING STOCK OF POSITIVE PRACTICES AND CHALLENGES



Developing or revising a torture prevention strategy can assist in identifying practices that work well and to reinforce them, as well as finding areas where further action may be required. This would generally include reviewing a range of existing laws, regulations, policies, procedures and practices. Specific issues relating to vulnerable groups within society also need to be considered and reflected in the strategy.

Relevant areas to review may include:

- justice
- health
- policing and law enforcement
- women
- prisons/corrections
- children/juvenile justice
- security
- migration and asylum
- extradition
- military

Torture prevention strategies may be developed as part of a process of taking stock following a review into a particular incident or a range of concerns. At other times, a strategy may be developed as part of a process of institutional strengthening, capacity building or organisational change. Ratifying UNCAT is a good opportunity to start thinking about developing a set of steps to be taken to implement the Convention, which could be framed within a strategy.

In developing their strategies, some States have taken advantage of recommendations from international review processes, such as the concluding observations and recommendations made by the UN Committee against Torture under the State party reporting procedure, and other international and regional human rights bodies and experts, as well as recommendations accepted or noted as part of the Universal Periodic Review (UPR) process.

“*Ratifying and implementing UNCAT is an effective way for States to strengthen how justice is administered, and in so doing, will help realize the Sustainable Development Goals, in particular Goal 16.*”

H.E. Marta Mauras, Ambassador and Permanent Representative of Chile to the United Nations in Geneva, 2017.

In recognition that human rights are essential to achieve sustainable development, many States are mainstreaming human rights implementation strategies within national development plans. Torture prevention strategies can also support the implementation of sustainable development goals. For example, torture prevention strategies such as those aimed at promoting rule of law and access to justice; reducing all forms of violence; tackling corruption and bribery; and developing effective, accountable and transparent institutions, are also strategies which address the UN's Sustainable Development Goals, in particular Goal 16.



SDG Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels



Dominican Republic: a strategy to improve conditions in prisons

In an effort to reduce prison overcrowding and poor living conditions, the Dominican Republic has established the “New Model of Prison Management system”. This strategy introduces a range of organisational changes aimed at improving conditions of detention and the treatment of prisoners. Central to the strategy is improving the professionalism of the prison staff through enhanced training and a more rigorous selection process. New prisons have been established with better living conditions and improvements in access to healthcare for prisoners, as well as activities and additional support designed to assist the process of social reintegration of prisoners.



Ecuador: aligning sustainable development and human rights

Ecuador has prepared a National Development Plan of Good Living 2013-2017 as its main instrument for public policy design. The plan has been developed with the understanding that the majority of SDGs are linked to human rights protection, consequently rights are acknowledged as the substantive part of the plan and not just “an approach”. One objective of the plan is to “consolidate transformation of the judicial system and reinforce comprehensive security, with strict respect for human rights”. This objective includes a number of policies and goals which complement actions aimed at torture prevention such as improving and modernizing the administration of justice, reducing crowding in prisons, reducing the number of cases pending trial, combating gender-based violence, and tackling impunity.



Kenya: a human rights-based approach to development

The Government of Kenya has adopted a human rights-based approach to development. This approach recognises that for development to be meaningful, rights must be realised by those whose development is at stake. Kenya has therefore mainstreamed human rights within its national development plan “Vision 2030”. The overall objective of this plan is to provide a framework for the integration and mainstreaming of human rights in development planning, implementation and evaluation in all sectors. For example, one of the targeted actions under Vision 2030 to end the abuse, exploitation, trafficking, and all forms of violence against and torture of children (Goal 16.2 of the SDGs) is the establishment of integrated one stop sexual and gender-based violence response centres in all healthcare facilities in Kenya. The centres aim to offer medical, legal and psychosocial support to victims. In addition as part of the process of Constitutional and legislative reform under Vision 2030, a number of laws have been enacted, including an anti-torture law which domesticates UNCAT.



Kyrgyz Republic: a national action plan to implement recommendations

In 2014 the Kyrgyz Republic (Kyrgyzstan) adopted a National Action Plan against Torture. This action plan sets out a range of legal and institutional reforms and aims in particular to address the recommendations made following a visit to Kyrgyzstan by the UN Special Rapporteur on torture. To assist with implementation of this plan, two inter-agency working groups on preventing torture and ill-treatment have been created to work in particular on amendments to legislation. In addition a special unit in the General Prosecutor's Office was established to supervise legality in pre-trial proceedings and torture prevention efforts generally.



Mauritius: a process of taking stock and aligning efforts to address challenges

The Republic of Mauritius has adopted a National Human Rights Action Plan 2012-2020 which includes a series of strategies aimed at the prevention of torture. This plan systematically covers achievements to date, remaining challenges and agreed measures to address the areas in need of reform. For example, with a view to ensuring greater professionalism and transparency in the conduct of criminal investigations and safeguarding the rights of suspects and detainees, the Government states that it will adopt a Police and Criminal Evidence Act, with Codes of Practice designed to regulate the conduct of persons entrusted with the duty of investigating offences, and address a number of issues relating to criminal enquiries, including victims' rights. Legislation regarding confessions shall also be reviewed to eliminate the possibility for convictions based solely on confessions.

INTER-AGENCY CONSULTATION AND COORDINATION



A torture prevention strategy is likely to include a range of goals that require consultation and coordinated action within and at times between institutions, involving different sectors and stakeholders. Some federal countries have established processes to help coordinate torture prevention actions with their sub-regions.



Bolivia (plurinational state of): a systematic and participatory process

Bolivia's National Human Rights Plan of Action 2009–2013 contained a section relating to the implementation of UNCAT. This plan was developed through a systematic process of data gathering and consultation. The actions to be taken were determined on the basis of three primary sources:

- ❶ recommendations, observations and judgements issued by human rights bodies;
- ❷ the standards and obligations set out in the various international human rights instruments; and
- ❸ the needs, issues and proposals put forward during workshops involving civil society and the NHRI.



Brazil: coordinated action to address prison conditions

In 2011, in order to address problems with prison conditions and violence in prisons in the State of Rondônia, an agreement was signed between the Brazilian government, the Governor of the State of Rondônia, the Judiciary of the State of Rondônia, together with State Office of the Public Defender and Public Prosecutor, as well as two Brazilian NGOs. The agreement details a range of measures aimed at preventing violence, enhancing monitoring, ensuring accountability and improving prison conditions in the Rondônia state prisons system. The agreement contains detailed and timetabled goals with corresponding budgets for the necessary measures to be taken.



Morocco: establishing thematic working groups

To assist with the development of its 2008-2016 national human rights action plan the Prime Minister established a large steering committee chaired by the Ministry of Justice and comprised of representatives from government ministries, the NHRI, civil society, unions, the media and professional bodies. Thematic working groups were established to provide expert input into the development of particular strategic objectives, including on the prohibition and prevention of torture. A series of regional consultations were held as part of a broad participatory approach. A coordination mechanism was also established to monitor, follow-up and evaluate the implementation of the Plan.



Uganda: improving cooperation among justice agencies

The “Chain Link Initiative” in the Masaka Magisterial district in Uganda was created as a pilot strategy to address overcrowding within prisons and strengthen the criminal justice system. In recognition that the justice agencies are all part of the same chain that makes up the administration of justice, a strategy was put in place to help the various agencies to work more closely together. The strategy included joint meetings to improve case management, and joint prison visits carried out to address overcrowding concerns, including identifying and ordering the release of prisoners found to be arbitrarily detained. The Chain Link initiative led to the introduction of a co-ordinated approach to planning and budgeting at a national level for the Justice, Law and Order sector programme in Uganda.

“None of us can truthfully say that we have a clean record on this issue. But much is being done to reduce the risk of torture and ill-treatment, including by improving safeguards in places of detention by building capacities and training police and prison officials on relevant standards, reforming national legislation and institutions, holding perpetrators accountable for their actions and providing remedies for victims, and making sure the public are aware of their rights and can exercise them.”

H.E. Mr. Sammie Eddico, former Ambassador and Permanent Representative of Ghana to the United Nations in Geneva, to the CTI’s Annual Forum, Geneva, 2016.

INSTITUTIONAL STRENGTHENING AND CAPACITY BUILDING



Some States have developed torture prevention strategies to support institutional strengthening processes and help build capacity of staff. Strategies can identify and acknowledge areas of policy and practice within institutions that need to be improved and subsequently to integrate agreed measures within planning and resource allocation processes, as well as to provide training and professional development programmes for staff.



Georgia: implementing strategies for professional, transparent policing practices

Since 2004, following a peaceful change in power, a series of police reforms have been undertaken with the aim of putting into operation legal safeguards and promoting transparent and professional police practices. Strategies to improve the treatment of individuals by the police have included enhanced human rights education within the police training curriculum and action to address corruption with the police services. Efforts to improve the professionalism of the police have also included abolishing “problem units” and recruiting new police officers, increasing pay and ensuring the police service is better equipped to undertake their law enforcement role in conformity with human rights standards.



The Former Yugoslav Republic of Macedonia: developing an action plan to improve capacity and knowledge

In its third periodic report to the UN Committee against Torture, the former Yugoslav Republic of Macedonia reported that in 2011 it carried out an evaluation of the knowledge of staff working in prisons in line with its obligations under Article 11 of UNCAT. Based on the findings of this evaluation an action plan was subsequently developed to provide ongoing training of staff at prisons and educational and correctional institutions.



Viet Nam: raising awareness and building capacity after ratifying UNCAT

Upon ratifying UNCAT in 2015 Viet Nam started a process of developing a national action plan for the implementation of the Convention with the support of other States. Part of this strategy includes raising awareness of the provisions of UNCAT among officials through a series of training workshops. In particular training has been provided on the use of investigative interviewing techniques for law enforcement officials.

PERIODICALLY REVIEWING PROGRESS



Periodically reviewing progress against the implementation benchmarks of an anti-torture strategy will provide an opportunity to highlight achievements made to date and ensure the strategy remains relevant to the current national context. A process of periodic review will enable resources and efforts to be realigned and the focus and/or timeline to be adjusted as progress is made to ensure the strategy remains pertinent and effective. A review can also critically evaluate and build upon lessons learnt from previous actions.



Malawi: applying lessons learnt from previous action plans

In the preparation of its draft National Human Rights Action Plan (2016-2020), the government of Malawi undertook a process to review and evaluate the implementation of the previous action plan. The aim of the review was to apply lessons learnt to strengthen both the content of the new action plan and the consultative process leading to its adoption. This evaluation included reviewing recommendations from the African Commission on Human and Peoples' Rights to strengthen the implementation of UNCAT. The evaluation and consultation was led by the Ministry of Justice and Constitutional Affairs and the Malawi Human Rights Commission.



Sweden: keeping a plan responsive and up-to-date

The Swedish Government has developed an action plan for the period 2016 to 2018 aimed at protecting children from human trafficking, exploitation, and all forms of violence and torture. This plan is part of a broader strategy to implement the 2030 agenda for sustainable development. This action plan updates and builds upon previous strategies while progress on implementation is continuously monitored by the Ministry of Health and Social Affairs in order to ensure that the plan remains relevant and responsive to developments on this issue.

DEVELOPING AND IMPLEMENTING A TORTURE PREVENTION STRATEGY: THINGS TO CONSIDER



Developing a strategy

1. Does a strategy already exist – for example, at national or agency level, or human rights or development plans – where torture prevention and response could be incorporated? Or is a specific strategy preferred?
2. What is a realistic timeframe for the development and adoption of a torture prevention strategy?
3. During the consultation process, whose input would be useful? What is the best way to obtain information from these stakeholders and future implementing partners?

Implementation

4. In conducting a review of existing legislation, policies, regulations, and procedures, do any need to be modified or even abolished? What is a realistic timeframe to achieve this review?
5. What additional resources are required to implement the strategy? Are the goals within the strategy properly costed to support the development of budgets or funding proposals?
6. What training, information and other educational materials will be useful to assist with the implementation of the strategy? Would any technical or other support be required to help build capacity?
7. How will the strategy be disseminated to staff within relevant departments or institutions, as well as more widely?
8. Would a process to facilitate the sharing of information within and across departments and/or services be useful in identifying and disseminating good practice?

Review and revising a strategy

9. How often will the strategy be reviewed and who will be responsible for leading the review? How will progress with its implementation be publicised?

Additional resources:

- [OHCHR Handbook on National Human Rights Plans of Action](#)
- [OHCHR Human Rights Indicators: A guide to measurement and implementation](#), in particular Table 4, p.91 and p.116
- [Article 5 Initiative Practical Monitoring Tools to Promote Freedom from Torture](#)



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