



CONVENTION AGAINST TORTURE INITIATIVE
CTI2024.ORG

“The UNCAT and India: Perspectives on Ratification”

Webinar 24 June 2020

*Organised by Commonwealth Human Rights Initiative and
the Organisation Mondiale Contre la Torture*

Presentation by Dr. Alice Edwards, Head of the CTI Secretariat

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Dr Kumar, Judge Shah, Ambassador Khan, eminent panelists, and everyone joining online,

Thank you to the Commonwealth Human Rights Initiative and OMCT for the invitation and opportunity to engage in this important discussion, during the week of the UN’s Day in Support of Victims of Torture, which we commemorate this Friday 26 June. It is a great honour.

CTI – the Convention against Torture Initiative – has for the past 5 or so years been assisting States in all regions to ratify the UN Convention against Torture, and to take action to review and reform national laws, policies, procedures and practices.

In this short period, an impressive 16 new States have ratified the Convention, making it one of the fastest moving of all the HR treaties, and it is poised to reach global ratification by our deadline – 2024, coinciding with the Convention’s 40th anniversary.

Also over this period, 100s of government officials and other stakeholders from 140+ countries have participated in cti events, seminars and visits, organised in the spirit of the initiative, which involves peer-to-peer, confidential and constructive (that is, “no name, no shame”) dialogue. We offer closed-door forums for States to share their experiences, challenges and successes.

CTI has conducted diplomatic visits to 10 countries, hosted delegations to Geneva, and developed a repository of over practical tools that showcase 180+ good and innovative examples of how States have implemented the Convention.

CTI is a unique cross-regional endeavour borne from the commitment of six governments – Chile, Denmark, Ghana, Indonesia, Morocco, and Fiji, and I’m pleased that Ambassador Khan has shared her country’s experiences of ratification and implementation, and the many benefits and opportunities it has brought.

This State-led approach has been particularly effective in opening doors, including with those States that may be reluctant to engage with international organisations or outsiders. An additional 40+ governments, international and regional organisations, leading anti-torture NGOs and experts form the CTI Group of Friends; and the CTI Secretariat which I head, is available to provide technical advice and capacity building assistance and runs CTI's annual programme of events and activities.

The prohibition against torture is a *jus cogens* norm of international law. UNCAT does not create a new obligation on States to prohibit torture, that obligation already exists as global custom; rather it is an instrument geared to assisting States – step by step, by providing a framework of building blocks for a robust and fair system of justice and governance, respecting the rule of law over might, and with checks and balances to guard against excesses. The key words in the treaty could perhaps be summarised as preventing, training, reviewing, criminalising, accountability, and protecting rights of victims.

Why ratify UNCAT?

Ratifying UNCAT in some countries has launched the country onto a new path of non-violence and reconciliation from past harms; for others it has prompted much-needed and welcomed reforms, leading to fairer, dignified and state of the art policing and law enforcement and criminal justice systems. For yet others, it has led to tangible benefits such as decongesting of overcrowded prisons, fewer scandals and complaints against the authorities, and enhanced trust and reputation between State authorities and the citizens they serve.

Being party to UNCAT also facilitates extradition between States parties and encourages coordination and mutual legal assistance between them, removing one of the barriers to the transfer and prosecution of accused suspects. This relates not only to those wanted for the crime of torture but also persons suspected of serious criminal activity.

Legislative stocktaking - both prior to and post ratification - has been undertaken by many States. In CTI's view, there is no requirement for an entirely compatible legislative framework to be in place ahead of ratification. Keeping laws under review is an ongoing and normal function of government, which is therefore – and perhaps unsatisfactorily – always an unfinished project. That said, CTI encourages States to undertake a gaps analysis and to plan for and commit to legislative reform where necessary as an important strategy for implementation. I appreciate what has been said today about the Indian approach to adopt legislation in advance of ratification, and the different view of Fiji, where practical reforms in relation to police first hours conduct and prisoner treatment and conditions were prioritised.

Through legislative review processes, UNCAT has helped countries abolish and rewrite old colonial laws that mandated hurt and suffering, for example in the treatment of prisoners; it has guided States to update laws that no longer reflect modern law enforcement approaches, or in fact which fail to match realities on the ground. CTI and the Association for the Prevention of Torture published an [anti-torture legislation guide](#) to assist governments get ready for ratification and implementation of UNCAT, and we were pleased to host a judge from the Indian law commission at a technical workshop on anti-torture legislation in 2017.

What causes torture and how do we respond to it?

Individuals who abuse their position of authority are only one part of a complex bureaucracy. Approaches to preventing such misconduct need to address all aspects that contribute to the overall environment that permits such practices to occur, and be properly located within broader processes and structures governing the rule of law and the administration of justice.

Research explains that a combination of political, economic, legal, cultural and social processes and structures create the conditions conducive to such behaviours as coercion, intimidation or corruption. Evidence also shows that the poorest and most vulnerable members of society are at heightened risk of ill-treatment.

On the other hand, today we are well equipped with understanding what causes and incentivises torture and similar abuses, and there are a wide array of good experiences on how to change mindsets, reduce risks and respond appropriately to incidents, prior to them becoming institutionalised behaviours.

In building torture-proof societies where people are treated with dignity, the rule of law and orderly conduct flourish, and risks are minimised, the UN Convention against Torture can really assist. As the CTI Core States say – no State is perfect, but all States could do better. They are united against torture as a universally recognised *ultra vires* act, and are committed to continuous improvements in their systems and societies.

Encouraging India to ratify

To welcome India as a State party to UNCAT, home to 1.3 billion people or nearly 18% of the world's inhabitants, would be an extremely important signal both home and abroad. Only 25 countries are left to ratify UNCAT, a rapidly shrinking number. We know the Indian Government does not support torture or ill-treatment, and we appreciate their recent commitments and pledges to ratify UNCAT.

CTI offers its full support to the Government of India in its deliberations and action towards ratification of this fundamental human rights treaty.

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