

Promoting ratification and meaningful implementation of the United Nations Convention against Torture in the Caribbean region



EVENT REPORT

San José, Costa Rica
29th and 30th October, 2015

Introduction

The importance of the UN Convention against Torture (UNCAT) is cemented by the fact that it has 158 States parties. However, 37 States have yet to ratify, of which 10 are Caribbean States.

With the aim to address challenges to ratification/accession so that Caribbean non-States parties can begin ratification/accession processes, the meeting was designed to illustrate good practices and lessons learned through a State-centered approach and to offer a peer-to-peer platform where obstacles to ratification and how to overcome these barriers could be discussed.

Senior representatives from the Police and the Attorney-General's Office from Dominica, Grenada, Jamaica, Saint Kitts & Nevis, Saint Lucia, and Suriname attended the meeting alongside a variety of regional as well as international anti-torture experts (see annex for concept note and full program).

The objectives of the meeting were:

- To promote the ratification and meaningful implementation of the Convention against Torture amongst Caribbean States;
- To demonstrate the steps that need to be taken to ratify and implement the Convention successfully;
- To show that ratification is not an obstacle in the fight against serious crime, but rather it assists State to establish more professional and effective police and criminal justice systems;
- To promote dialogue and cooperation among countries of the Latin American and the Caribbean region and beyond on torture prevention.

The meeting was held jointly by the Convention against Torture Initiative (CTI) and the Inter-American Institute of Human Rights (IHR).

IHR is an international and autonomous academic institution that teaches, researches and promotes human rights. With a history of more than three decades of work in Latin America and the Caribbean, the IHR is recognized internationally for its ability to respond to the requirements of human rights during their evolution and growth, especially in the complex political context beginning with the process of democratization in Latin America and continuing with the human rights challenges of the present day.

The CTI is an intergovernmental initiative being spearheaded by the Governments of Chile, Denmark, Ghana, Indonesia and Morocco with the aim to achieve universal ratification and implementation of the Convention against Torture by 2024. The CTI is an initiative by and

for States seeking to enhance exchange of experience and knowledge in order to learn from others with similar challenges – typically in regional settings. The CTI takes a positive and constructive approach to supporting governments in their efforts to pursue ratification of the UNCAT and to implement the Convention.

Benefits of ratifying the Convention against Torture and its Optional Protocol

Ratification of the Convention against Torture comes with multiple benefits. The following were highlighted at the meeting:

- Ratification would send a strong signal of commitment to fight and prevent torture and will in turn result in humane and dignified treatment of persons and broader promotion of the rule of law;
- Ratification would create opportunities for capacity building and developing good practices on torture prevention through, for example, participating in the international community and having access to numerous resources and mechanisms;
- The ratifying State would obligate itself to report periodically to the UN Committee against Torture, which can improve transparency not only at the international level but also domestically, particularly where citizens and civil society are able to participate in national human rights and policy review processes;
- Meaningful implementation of the UNCAT has allowed some countries to reestablish credibility and has helped fight crime;
- Implementing the Convention may require reforms of legislation and associated regulations, or improvements in the implementation of existing law;
- Defining torture in national criminal legislation would in particular give it appropriate legal sanction, help avoid subsuming the crime as a lower offence and provide for redress for victims.

Ratification of the Optional Protocol to the Convention was also highlighted as an important – and subsequent – action to ratifying the Convention. Benefits were emphasized as being inter alia:

- By ratifying OPCAT, a preventive rather than a reactionary culture and scheme would be put in place, eliminating the risks of torture occurring in the first place;
- The creation of an operational framework through the designation or setting up of national preventive mechanisms with the authority to carry out preventive visits to places of detention;
- The receipt of advice from the UN Sub-Committee on the Prevention of Torture on a confidential basis to improve safeguards and systems in places of detention;

- The establishment of a triangular relationship between the international community, the State and the police and other national actors.

Challenges and obstacles

The following challenges and main obstacles to ratification of the UNCAT were highlighted:

- A general misperception among States – which was also highlighted as one of the main challenges – that there was a need to undertake national reforms of legislation and policing *before* ratification could be considered. However, it was noted that since ratification does not require a perfect system at ratification, it was not expected that a State undertake a full legal reform before it ratifies. It was stressed that ratification and subsequent meaningful implementation should be perceived as an incremental process, which can be supported by early ratification.
- Human and financial capacity constraints in relation to possible reform processes and/or reporting to the Committee against Torture;
- Public demand for speedy trials nurtured the risk of a confessions-based culture in which torture and other forms of cruel, inhuman or degrading treatment were employed to extract confessions. This approach could also lead to wrongful convictions;
- Overcrowded prisons created tense conditions between prisoners and personnel which often resulted in violence and situations where there was an increased risk of the use of torture.

Good practices and ways forward

Some good practices and possible approaches were shared:

- In relation to the reporting obligation to the Committee against Torture, which was seen by some States as one of the key obstacles to ratification, participants were advised that guidelines on how to report to the Committee were already available, including a simplified reporting procedure.¹ *Note:* Since the Costa Rica meeting, the CTI issued its [Ratification and Implementation Strategy for 2016-17](#), in which supporting newly ratifying States to meet their reporting obligation would be one of its thematic priorities.

¹ See, annex to the CTI's UNCAT Ratification Tool on *General Guidelines on Initial reports to the Committee against Torture*, <http://cti2024.org/en/ratification-tool/> and the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Guidelines on the Form and Content of Initial Reports under Article 19 to be Submitted by States Parties to the Convention against Torture*, CAT/C/4/Rev.3, 18 July 2005, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/4/Rev.3&Lang=en; see, also, CAT, *Optional Reporting Procedure*, A/62/44, paras. 23-24 and CAT/C/47/2, available at: <http://www.ohchr.org/EN/HRBodies/CAT/Pages/ReportingProcedures.aspx>.

- Implementation of an evidence-led (rather than confession-led) investigative approach make detainees willing to engage with law enforcement. Participants offered their support for further regional police cooperation;
- Adopt and implement simple preventive measures such as education, training, the use of CCTV in detention and video or audio recording of interviews by law enforcement;
- The inter-State cooperation which was offered inter alia by the CTI was highlighted as a useful measure to learn about other States' concerns and obstacles during their ratification processes and how they overcame them. In particular, the intra-regional approach was highlighted as especially useful due to the more probable similarities between States in relation to inter alia legal systems, cultures and opportunities;
- The CTI's offer to facilitate in-country technical visits was received as a welcome opportunity to learn more about the Convention and the obligations that come with ratification on a bilateral basis;
- Use the Universal Periodic Review as a platform to highlight good practices and developments on States' national human rights records and to recommend ratification of the Convention or better implementation of specific Convention obligations.
- National human rights institutions (NHRI) were emphasized as mechanisms with great potential for being catalysts for domestic change. NHRIs were seen as durable and sustainable ways of taking forward issues related to ratification and torture prevention by inter alia raising awareness;
- Finally, the value of involving a wide range of actors in discussions on ratification was mentioned, including the executive, judicial and legislative branches, as well as civil society and other actors.

Annex: Concept note and programme

“Promoting ratification and meaningful implementation of the Convention against Torture in the Caribbean region”

San Jose, Costa Rica 29th and 30th October, 2015

Background

The adoption of the Universal Declaration of Human Rights in 1948 inspired the international community to adopt legal commitments, including provisions to prohibit torture. The Convention against Torture was adopted in 1984 and its importance is demonstrated by the fact there are now 158 state parties to the Convention. However, 37 states have yet to ratify the Convention, 10 of which are Caribbean states.

In March 2014, the Governments of Chile, Denmark, Ghana, Indonesia and Morocco marked the 30th anniversary of the UN Convention against Torture (UNCAT) by launching a ten year global initiative for the universal ratification and implementation of the Convention. The Convention against Torture Initiative (CTI) facilitates technical advice, support and cooperation among States parties as well as non-States parties to the Convention to help them overcome obstacles to ratification and implementation of the Convention.

Obstacles to ratification and effective implementation can vary from state to state, but common challenges often involve:

- Concern by some stakeholders, particularly police, security and intelligence agencies that ratification may inhibit their ability to fight crime
- Perception that reporting responsibilities to the Committee against Torture will be too much of a burden
- Lack of information about the extent of complex legislative reforms required and further reforms in areas such as prisons, healthcare and the criminal justice system

It is important that states understand fully the obligations that ratification of the Convention can bring. It is often the case that widespread reform is not needed and only minor procedural or legislative amendments are required. Similarly, it is important that states considering acceding to the Convention also see the benefits and opportunities that ratification can bring, such as a more professional police service capable of commanding greater public support. Non states parties might also benefit from engaging directly with states, both within their region and beyond, that have ratified the Convention and do not see it as a barrier to combating serious crime.

There is clearly work to be done in demonstrating the benefits of ratification in the Caribbean; a region that is otherwise engaged with the international community and respectful of human rights. If Caribbean states did ratify, it would assist the international community considerably by demonstrating to states that condone the use of torture that they are in a tiny minority.

Objectives of the Meeting

- To promote the ratification and meaningful implementation of the Convention against Torture amongst Caribbean states
- To demonstrate the steps that need to be taken to ratify and implement the Convention successfully
- To demonstrate that ratification is not a barrier to combating serious crime and may even assist in establishing a more professional and effective police and criminal justice system
- To promote dialogue and cooperation among countries of the Latin American and the Caribbean region and beyond on torture prevention

Participants

The event is primarily for representatives from states in the Caribbean region that have not ratified the UNCAT. Two senior representatives – ideally from the Police and the Attorney-General’s office - will be invited to attend from the following states:

- Bahamas
- Barbados
- Dominica
- Grenada
- Haiti
- Jamaica
- Saint Kitts & Nevis
- Saint Lucia
- Suriname
- Trinidad & Tobago

A range of experts will also be invited to speak at the event, as will representatives from states that have ratified the Convention. This will include:

- Senior UN Office Holders, such as Members of the Committee against Torture and the UN Special Rapporteur on Torture
- Experts from torture prevention specialists, such as the Association for the Prevention of Torture (APT)
- Senior Representatives from states such as Brazil, Costa Rica, Mauritius, Denmark, Chile and Fiji
- Experts in reform processes relating to the police, prisons and judiciary

Implementing Partners

Inter-American Institute of Human Rights

The Inter-American Institute of Human Rights (IIHR) is an international and autonomous academic institution for the teaching, research and promotion of human rights. It is today one of the world’s most important centers of teaching and academic research on human rights, with a multidisciplinary focus and a particular emphasis on problems in the Americas.

With a history of more than three decades of work in Latin America and the Caribbean, the IIHR is recognized, *inter alia*, for its ability to respond to the requirements of human rights during their evolution and growth, especially in the complex political context beginning with the process of democratization in Latin America and continuing with the human rights challenges of the present day.

In addition to working with partners on defining the concept note and program, the IIHR will be responsible for arranging air-travel, visas and accommodation of participants and other logistical matters relating to the meeting. It will also be the venue of the event and will coordinate the financial management and the reporting of the project.

Convention against Torture Initiative

The CTI is an intergovernmental initiative spearheaded by the governments of Chile, Denmark, Ghana, Indonesia, and Morocco aiming at the universal ratification and implementation of the Convention against Torture by 2024.

The CTI is an initiative by and for equal government partners seeking to enhance exchange of experience and knowledge in order to learn from others with similar challenges – typically in regional settings. The CTI takes a positive and constructive approach to supporting Governments in their efforts to pursue ratification of UNCAT and to implement the Convention.

Costs of the meeting will be met by a grant from the Danish Ministry of Foreign Affairs and the CTI. The CTI Secretariat will assist the IIHR in defining the concept note and program and CTI Government representatives will play a full role at the meeting itself.

Time and Venue

The Regional Meeting will take place at the Inter American Institute of Human Rights in San Jose, Costa Rica on the 29th and 30th October, 2015. The meeting will be conducted in English. A full program is attached.

DAY ONE (29th October/Thursday)

Chair – Joseph Thompson, Executive Director of the IIHR

Time	Agenda
09:00-09:30	<p>Opening Remarks by:</p> <p>Cecilia Sanchez Romero, Minister of Justice and Peace of Costa Rica.</p> <p>Claudio Grossman, President of the Inter American Institute of Human Rights (IIHR)</p> <p>Carsten Staur – Permanent Representative of Denmark to the United Nations in Geneva</p>
09:30-10:30	<p><u>Session 1:</u></p> <p>Overview of the importance of torture prevention in the context of human rights protection in the Americas and the contribution of the region to human rights globally.</p> <p>Claudio Grossman, Chair of the UN Committee against Torture</p> <p>Joseph Thompson, Executive Director of the IIHR</p>
10:30-11:00	Coffee Break & Group Photo
11:00-1:00	<p><u>Session 2 :</u></p> <p>Convention against Torture: How Ratification and Implementation can benefit states/victims</p> <p>Juan Mendez, UN Special Rapporteur on Torture</p> <p>Country Examples:</p> <p>Costa Rica – Montserrat Solano Carboni, Costa Rica Ombudsman.</p> <p>Chile - Miguel Ángel González Morales, Chilean Ambassador to Costa Rica</p> <p>Mauritius - Subhas Gujadhur, Director, Universal Rights Group and former senior Diplomat with the Mauritius Government</p>
1:00-2:30	Lunch
2:30-3:30	<p><u>Session 3:</u></p> <p>Implementation of the Convention Against Torture: Summary of</p>

	<p>State Obligations</p> <p>Matthew Sands, Senior Legal Adviser, Association for the Prevention of Torture (APT)</p>
3:30-3:45	Coffee break
3:45-5:30	<p><u>Session 4:</u></p> <p>Implementation of the Convention Against Torture: Reform of Police procedures</p> <p>Mike Kellett, Retired Police Investigator and former Police advisor to the European Committee for the Prevention of Torture</p> <p>Country Example:</p> <p>Fiji - Major General Bernardus Groenewald, Commissioner of Police, Fiji</p>
6:00	Welcoming reception. (Host: Inter-American Institute of Human Rights)

DAY TWO (30th October/Friday)

Chair – Ambassador Carsten Staur, Permanent Representative of Denmark to the United Nations in Geneva

Time	Agenda
9:00-10:30	<p><u>Session 5:</u></p> <p>Criminal Justice and security sector reform: regional best practice</p> <p>Karen McKenzie, Head of Human Rights at the Commonwealth Secretariat</p> <p>Country example:</p> <p>Brazil – Karolina Castro, National Human Rights Secretariat of Brazil</p>
10:30-10:45	Coffee Break
10:45-01:00	<p><u>Session 6:</u></p> <p>The Preventive Approach and the Optional Protocol</p>

	<p>Sylvia Dias, National Delegate of the Association for the Prevention of Torture (APT) in Brazil</p> <p>Elizabeth Odio Benito, former Minister of Justice of Costa Rica and former Judge at the International Criminal Court</p> <p>Country Example:</p> <p>Mauritius - Subhas Gujadhur, Director, Universal Rights Group and former senior Diplomat with the Mauritius Government</p>
1:00-2:30	Lunch
2:30-3:30	<p><u>Session 7:</u></p> <p>Wider Issues Relating to Implementation of the Convention against Torture</p> <p>Preventing torture in prisons and detention centers</p> <p>Selene Pineda, ILANUD, specialist in the region</p> <p>Legal and judicial reforms</p> <p>Sylvia Dias, National Delegate of the Association for the Prevention of Torture (APT) in Brazil</p>
3:30-3:45	Coffee break
3:45-4:15	<p><u>Session 8:</u></p> <p>How the CTI can provide further assistance to states</p> <p>Carsten Staur – Permanent Representative of Denmark to the United Nations in Geneva</p>
4:00-5:00	<p>Final Interactive Dialogue for Participants on issues raised at this meeting and discussion of how best to follow up.</p> <p>Wrap up</p>