



CTI regional workshop

**Benefits of, and challenges to, ratification and implementation of the
Convention against Torture in the Pacific region
Sharing experiences and building capacity**



**Natadola, Fiji
27-28 October 2016**

Event report



Objectives and background

1. As part of its [Strategy for Implementation and Ratification 2016-2017](#), the Convention against Torture Initiative (CTI) held a regional workshop for Pacific Small Island Developing States (PSIDS) in Natadola, Fiji, on 27-28 October 2016. The event was co-hosted by the CTI and the Government of Fiji, and organised in partnership with the Association for the Prevention of Torture (APT) and the Universal Rights Group (URG).
2. The Pacific region is a region with a strong democratic and rule of law tradition. Notwithstanding, only three PSIDS are States parties to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) (Fiji, Nauru, and Vanuatu), with nine States not yet party, thereby making up nearly 25% of the global number of non-States parties.
3. The objectives of the meeting were to promote dialogue and cooperation among countries of the Pacific region and beyond on torture prevention with a view to moving towards ratification by all PSIDS and supporting and improving implementation of UNCAT.
4. Around 60 participants from across the Pacific region, and beyond, attended the workshop, drawn from various departments and line ministries; human rights and anti-discrimination commissions; attorney-general's offices; national human rights institutions; police commissions; ombudsman's offices; and law commissions. 10 PSIDS were represented at the event: Fiji, Kiribati, the Marshall Islands, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu. The CTI core group was represented by ambassadors from Chile, Denmark, Ghana, and Indonesia.
5. The workshop was opened by the Honourable Mr Frank Bainimarama, Prime Minister of Fiji, H.E. Mr Triyono Wibowo, Ambassador, Permanent Mission of Indonesia to the UN in Geneva, on behalf of the CTI core group, and H.E. Mr Zeid Ra'ad Al Hussein, UN High Commissioner for Human Rights (via video link).
6. The meeting benefitted from the sharing of best practice experience from leading international experts from Indonesia, Norway, Seychelles, and UK.
7. In addition to State representation, the event featured input from, the UN Special Rapporteur on Torture (via video link), the UN Committee against Torture (CAT or the Committee), the Regional Representative of OHCHR Regional Office for the Pacific, and experts from the APT and the URG. The event also benefitted from the participation of a number of CTI Friends (Australia, New Zealand, United Kingdom, and the United States of America), the European Union, the Pacific Island Forum, the International Committee of the Red Cross, and UNDP in the Pacific.
8. The seminar was conducted under the Chatham House Rule to encourage and foster open and frank dialogue amongst all participants. Information on State practices are captured in this report as far as they are already in the public domain. All participants were given an opportunity to review the report in advance of its publication.

Ratification

Benefits of and key challenges to ratifying UNCAT in the Pacific

A number of benefits of ratifying UNCAT were identified, alongside a few key challenges:

9. **Demonstrating political will:** The Universal Periodic Review (UPR) was identified by a number of participants as a catalyst to drive steps towards ratification and subsequent implementation. To this end, six out of the nine participating non-States parties have accepted UPR recommendations to ratify the Convention, demonstrating positive political will across the region.
10. **Taking a public stand:** Along the same lines, at the international and regional political levels, ratification was seen as sending a strong statement of a State's commitment to fulfil its international human rights commitments, and to fight and prevent torture. At the national political level, ratification would re-emphasise to the authorities and to the public the State's intolerance to practices that promote torture or other inhumane treatment or punishment.
11. **Opportunity to revise laws and practices to foster confidence in justice systems:** Ratifying the UNCAT was highlighted as an opportunity to review, improve or update existing laws, regulations, policies, procedures and practices in various areas, including in the law enforcement and detention sectors. It was emphasised that the UNCAT is a treaty that directly impacts the rule of law, good governance, effective law enforcement, and criminal justice; and in turn can promote economic investment and growth, tourism, and political stability.
12. **National consultations to understand implications of ratification:** A useful way to 'get the ball rolling' on ratification is to hold national consultations involving members of key line ministries and departments together with, as deemed appropriate, parliamentarians, NHRIs and civil society. Fiji's consultations on UNCAT were offered as a positive case study where the national consultation was a key driver for ratification, especially because it revealed that several of the necessary procedures and processes for completing ratification were already in place. Several participants underlined the importance of ensuring that domestic consultations are inclusive in nature, involving all relevant national stakeholders, including civil society. This helps ensure broad domestic support for ratification.
13. **Key challenges:** The main concerns regarding UNCAT ratification expressed by PSIDS revolved around resources, capacity and expertise, for example, to ensure full implementation in certain areas, and particularly to be able to report to the UN Committee against Torture (see paragraphs 28-37 below). For a few States, decisions on when to ratify UNCAT had not (yet) been taken, and further reflection on national priorities was needed.
14. **Opportunities for assistance and support:** Some States observed that expressing commitment to torture prevention through ratification of UNCAT had led to significant assistance and support from the international community e.g. technical advice, rule of law projects, and international development and disaster response assistance.
15. **Advice and support at hand:** The CTI – APT UNCAT Ratification Tool was referred to for more information on the benefits, obligations, and steps to take towards ratification. See further paragraphs 37-44 on available offers of support.

Implementation

16. Despite a wide number of good practices throughout the Pacific region on torture prevention, participants highlighted a number of challenges regarding implementing the various elements of the Convention.
17. It was emphasised that irrespective of a State's level of development, resources or size, no State has a perfect record and that all States face challenges in implementing the UNCAT. As the UNCAT does not prescribe in detail the manner in which States are to implement the obligations, there is scope for States to try different approaches and to see what works best, within their particular context.

Reforming national legislative frameworks

18. As for national legislative reform, it was pointed out that such adjustments do not need to take place prior to ratification, but would form part of a roadmap or action plan on implementation after ratification. It was noted that, positively, most PSIDS already have constitutional guarantees against torture and arbitrary detention.
19. A discussion on the recommendation to criminalise torture as a specific crime was lively, with recommendations to follow closely the definition of torture in Article 1 of the UNCAT. One participant indicated that the lack of a clear understanding of torture domestically had created some national legal uncertainty.
20. The [APT-CTI Anti-Torture Law Guide](#) was presented as a useful tool, highlighting good State practices that could be studied.

Supporting effective criminal investigation and prosecution

21. Ratifying the UNCAT was highlighted as an opportunity to review existing procedures and overcome ineffective practices in the law enforcement and detention sectors in particular.
22. One important issue to prevent torture is the challenge of reforming criminal investigation methods that focus almost exclusively on obtaining a confession. Evidence has shown that confessions-based police cultures can incentivise abusive practices by police and others with a law enforcement mandate.
23. Good practices were shared on how to implement evidence-led investigation approaches, as well as how to build in safeguards to limit recourse to torture and other abusive practices. These safeguards include *inter alia*, the right to have information about the detention (including place of detention) notified to a next of kin; the right of access to a lawyer; and the right of access to medical treatment.
24. In adopting such safeguards, a number of other positive impacts were observed, including reducing the number of complaints made against the police; fewer legal challenges (to confessions) during trials; improved police professionalism; fewer unsafe convictions; and greater public confidence in the police and in the criminal justice system in general.
25. Several good experiences on investigative interviewing and safeguards were presented from the Pacific, wider Asian region and beyond (Indonesia, Norway, Solomon Islands, Tonga, and the United Kingdom). In addition, the recently launched 'First Hour' pilot project in Fiji that

introduces video recording and access to a lawyer for initial police interviews was identified as an important example of how to develop safeguards for suspects in custody. It was considered that the Fiji project and the partnerships for example between Indonesia and Norway on training on investigative interviewing could be expanded or replicated to include other PSIDS.

26. The former UN Special Rapporteur on Torture, Mr. Juan Mendez, presented via video link [his latest report](#) on interrogation safeguards and methods, calling for the development of a universal protocol for investigative interviewing and attendant safeguards.

Good practices on reporting to the Committee against Torture and other human rights bodies

27. Despite making consolidated efforts to improve their Treaty Body (TB) reporting, most PSIDS continue to face a backlog of overdue periodic reports under the treaties to which they are party. While acknowledging this concern, a number of innovations that have been developed in recent years were highlighted such as those geared at simplifying TB reporting processes for States and putting in place structures that can assist these processes. One State remarked that if you focus on taking steps to implement the Convention, reporting would follow.
28. It was noted that OHCHR together with NGOs, such as the URG, have done considerable work in helping States establish and/or develop so-called National Mechanisms for Reporting and Follow-up (NMRFs).¹ These mechanisms are designed to collect, cluster, prioritise, and coordinate the domestic implementation of recommendations from various international human rights mechanisms. Importantly, OHCHR and the Human Rights Council have improved delivery of capacity-building and technical support for implementation and reporting, especially to SIDS and LDCs (e.g. through the Human Rights Council Trust Fund for SIDS and LDCs²), while the OHCHR's Capacity Building Initiative has been working with PSIDS on TB reporting. See, in particular, OHCHR's recently published [Practical Guide](#) on establishing NMRFs.³
29. It was observed that in clustering and prioritising UN human rights recommendations from various bodies by theme, it becomes apparent that the recommendations cover only a handful of key human rights issues and challenges and become more manageable to implement and review. In relation to reporting to and following up on recommendations from the CAT, mention was made of the simplified reporting procedure, in which States may opt to respond to a list of issues prior to reporting (LOIPR) with the responses forming the State party report. Such a procedure is especially beneficial for small States.⁴
30. Several speakers - including the CAT member present - stressed that the reporting procedure to the Committee should be seen as a constructive dialogue in which the CAT can work with States and offer guidance and support to States as they seek to bring national laws and practices into line with the Convention.
31. Within the Pacific, there were a number of good practices including from Kiribati, Samoa and Vanuatu, on how to better coordinate the implementation of, and reporting on, obligations contained in human rights treaties: Kiribati has established a human rights taskforce, consisting

¹ These bodies have also been known as Standing National Implementation Coordination and Reporting Structures (SNICRS).

² Trust Fund to Support the Participation of Least Developed Countries (LDCs) and Small Island Developing States (SIDS) in the work of the HRC: <http://www.ohchr.org/EN/HRBodies/HRC/TrustFund/Pages/SIDS-LDCs.aspx>

³ See, OHCHR, [National Mechanisms for Reporting and Follow-Up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms](#), New York and Geneva, 2016.

⁴ See Committee against Torture - [Optional reporting procedure](#); Annex to [CTI – APT's UNCAT Ratification Tool](#).

of high-level staff across relevant departments, including Ministry of Education, of Statistics and of Health, to improve national TB and UPR coordination, implementation and reporting; Samoa has taken steps to establish an NMRF; and Vanuatu has developed a National Human Rights Committee, with specialised sub-committees for each human rights treaty ratified by Vanuatu, including for UNCAT, and has developed a matrix for tracking and disseminating recommendations (in cooperation with OHCHR).

32. The Seychelles shared their experience of having established a NMRF, which was presented to the meeting as an example of how such structures can be particularly useful for SIDS, and that take into account human and technical capacity constraints. The Seychelles explained that its NMRF is composed of senior representatives of all relevant ministries, the police, prisons service, civil society, members of the national assembly, the Red Cross, the Ombudsman and other agencies ensuring the broadest possible participation and support. In addressing the challenge of staff turnover, common to many SIDS government offices, two focal points have been appointed in each ministry and agency to ensure continuity and follow-up.
33. External consultants were mentioned as another way to support the drafting of TB and/or UPR reports. Several States explained their positive experience with consultants in helping overcome the backlog of overdue reports while others were of the view that this method may detract from the State-led purpose of reporting, and should only therefore be a short-term fix.
34. Another challenge mentioned by PSIDS was appearing in person before the TB in Geneva. One State (Tuvalu) explained their experience of having conducted their interactive dialogues with TBs remotely (i.e. via video link from the OHCHR Office in Suva), or by sending a smaller delegation to Geneva while having a wider number of State officials (“back up delegation”) participate via video link from capital.
35. Participants also heard about online matrices/databases being developed by OHCHR, which hope to increase transparency around a State’s human rights commitments, track and show progress with implementation, and apply impact indicators to measure change/reform. The idea is that these databases are to be regularly updated by relevant line ministries, and can be viewed online by the wider public and civil society. In turn, these systems should ease the State’s reporting burden, as relevant material is already recorded as developments happen and in one place, while also promoting transparency and government accountability at national and international levels.
36. Several PSIDS praised existing technical assistance and capacity building programmes provided by OHCHR, UNDP, and other international and bilateral partners in the region.

Recommendations and next steps

37. There was general interest in UNCAT ratification and/or improved implementation. A number of non-States parties noted that upon return to their capitals they would prepare Cabinet papers outlining the needs and the benefits of becoming party to the UNCAT; organise inclusive domestic consultations on UNCAT ratification and implementation; and/or organise debates in parliament on ratification.
38. Participating PSIDS expressed interest in receiving tailored human and technical support, preferably in-country, either through the UN (OHCHR, UNDP, UN Resident Coordinators), through bilateral development partners, or via the CTI (including APT and URG).

39. The CTI core group States reiterated their commitment to work with PSIDS in their efforts towards ratification and/or implementation of the Convention. The CTI core group described the various ways in which CTI is able to support States, including *inter alia* via study visits to Geneva; in-country technical or diplomatic visits; and through regional meetings. The CTI core group invited all PSIDS present to join the CTI Group of Friends, as a way to express interest in ratification and to make contact with other States.
40. All regional and bilateral partners, including CTI Friends (Australia, New Zealand, United Kingdom, and United States of America), OHCHR, UNDP, and the European Union (EU) expressed their commitment to support PSIDS with technical assistance and capacity building.
41. Explaining the United Kingdom's work within the region, as well as their support of the Commonwealth Small Islands Office in Geneva, the UK expressed its willingness to provide support to the needs and requests of PSIDS.⁵
42. On the issue of technical assistance, the EU highlighted its programme on treaty ratification and implementation. The EU stated its willingness to provide dedicated support to help PSIDS ratify and implement UNCAT.
43. OHCHR Regional Office for the Pacific highlighted their capacity-building efforts under the Treaty Body strengthening process, and their intention to intensify support to States in the Pacific, both on reporting and improved implementation. OHCHR explained that they are developing important new programmes focused specifically on capacity-building in the context of the establishment and development of NMRFs in the Pacific. OHCHR encouraged PSIDS representatives to be vocal about their challenges and needs, in order to ensure tailored and targeted support from the UN.
44. Beyond the offer of support from OHCHR Pacific, capacity-building and technical support from UN Country Teams, UN Women, UNICEF, and UNDP in the Pacific were also identified as further avenues of assistance.

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⁵ The Commonwealth Small Islands Office in Geneva is run by the Commonwealth Secretariat and provides small States, including PSIDS, with a subsidised infrastructure for permanent diplomatic missions and visiting small States delegations, and an increased profile for PSIDS in multilateral and international fora in Geneva, including at the United Nations and the OHCHR, on human rights. More information can be found at <http://thecommonwealth.org/enabling-small-states-participate-international-decision-making>