

Convention against Torture Initiative 2014-2024



UNCAT ratification seminar

UNHQ, New York – 12 May 2015

Report of proceedings

Introduction

On Tuesday 12 May 2015, the Convention against Torture Initiative (CTI) and the Permanent Representations of Chile, Denmark, Ghana, Indonesia and Morocco held a half day seminar on UNCAT ratification (see annex 1 for invitation and agenda).

States not parties to the Convention as well as government members of the CTI Group of Friends had been invited to participate in the seminar in order to provide a forum to consider the benefits of UNCAT ratification, challenges to ratification and good practices on how to overcome them.

Furthermore, participants were introduced to a draft UNCAT ratification tool prepared for the CTI by the Association for the Prevention of Torture (APT) – specialist organisation and CTI's strategic and anti-torture expertise partner.

The Deputy Permanent Representative of Morocco, Mr. Abderrazzak Laassel, opened the seminar by presenting to the participants the goals and purposes of the CTI (see annex 2 for a CTI concept note) as well as to the reasoning behind convening the seminar (see annex 3 for Mr. Laassel's opening remarks).

20 States participated in the seminar, including five non-States parties, 10 members of the Group of Friends and the five States behind the CTI: Australia, Central African Republic, Chile, Denmark, Egypt, Fiji, Finland, Germany, Ghana, Indonesia, Italy, Jamaica, Malaysia, Morocco, New Zealand, Norway, Sudan, Sweden, Switzerland, UK as well as APT and the CTI Secretariat.

UNCAT – benefits and obligations

APT Legal Adviser, Ms. Anne Lardy, informed participants about the benefits that come with UNCAT ratification as well as the obligations the Convention imposes on States parties (see annex 4 for the presentation). Ms. Lardy informed that, by ratifying the UNCAT, States will support good governance and security by promoting a system of accountability and international review. Implementing the UNCAT at national level will also help build faith in the rule of law and hence restore confidence in the State.



The UNCAT generally differed itself from OPCAT due to its focus on a variety of aspects, including prohibition, preventive measures, accountability and redress for victims whereas OPCAT was focused solely on a preventative aspect in terms of the establishment of national preventive mechanisms. In general, the OPCAT was perceived as a tool to implement some of the obligations contained in the OPCAT, especially those related to torture prevention.

It was noted that the lack of capacity for many States posed the biggest obstacle to move towards ratification of the Convention and the CTI was in this regard highlighted as being able to make a real difference in terms of tackling this issue. The need for intensified capacity building had been addressed with many relevant bodies that until now had chosen to remain unresponsive to these requests. The CTI, however, was established for exactly this purpose: to convene workshops and develop reform programmes to help States willing to ratify through the process including by strengthening their capacities.

Furthermore, the Committee against Torture (CAT) was established as a treaty based mechanism related to States reporting obligation and could be extremely helpful in terms of providing advice and guidance on the effective implementation of the Convention. This underscored the fact that ratification can be done before all treaty obligations are seen to be fulfilled or in place. A question was raised in this regard as to whether a State who had not fulfilled all treaty obligations upon ratification would risk being subject to criticism by the CAT when handing in its first report one year after ratification. To this, it was reiterated that cooperation with the CAT should be seen as constructive and leading towards improvement of national laws and procedures, rather than an exercise where States are being criticised.

On a question related to the role of the Special Rapporteur on Torture, it was underscored that meanwhile the Special Rapporteur has the mandate to identify States' needs in terms of strengthening national torture prevention efforts as well as alerting them to other issues that need to be addressed, he/she will not be equipped to assist a State throughout the process due to limited capacity. The CTI – on the basis of recommendations made by the Special Rapporteur and thus complimentary in its mandate – would, however, be able to propose solutions and a constructive way forward.

Ultimately, by ratifying UNCAT, a State naturally joins the international community with all its mechanisms designed to help and assist in any way possible to effectively implement the Convention.

UNCAT ratification tool

Ms. Lardy introduced the draft UNCAT ratification tool – a tool designed to answer governments' key questions about ratification. Ms. Lardy informed that the tool was being finalised and the CTI welcomed any comments or unanswered questions the delegations may have. The tool, made up of several documents and annexes, intended to answer the most common questions raised by States, including a brief overview of the obligations of the UNCAT and OPCAT, the priorities upon ratification such as a legal mapping, the development



of a legal roadmap, the preparation of the initial report, etc. Other important questions such as when to ratify and an annex on reservations and declarations were also included in the tool and were presented during the seminar.

Participating States provided several constructive proposals to the improvement of the tool which will be incorporated in the final template.

Challenges related to UNCAT ratification and good practices in overcoming them

APT Secretary General, Mr. Mark Thomson, pointed to five issues States could face in their UNCAT ratification considerations as well as possible ways of overcoming these challenges:

1. Government and national policies

A lack of political will, low priority or a general question of “is there really a need?” were highlighted as fairly common reasons for non-ratification. A way to tackle this approach was through inter-ministerial dialogue on the administration of justice, police and penitentiary reform as well as to engage parliamentarians in the process. At the international level, active engagement in the UPR process along with a more general interaction with the international community had shown to be game changers in the mind-sets of governments.

The CTI had addressed the issue of low priority at a practical level by organising a study visit to Geneva for a delegation from Myanmar on UNCAT ratification. The delegation had met with other States who were either going through a ratification process or had recently ratified which had enabled a constructive dialogue between the countries engaged resulting in renewed consideration to ratify UNCAT as a matter of priority.

2. Institutional challenges

Challenges related to the well-functioning of effective judicial systems and to the independence of oversight and complaints mechanisms could be addressed through capacity strengthening of judges, lawyers, police and prison personnel in order to promote good practices. Support for independent and effective NHRI’s was in addition an important focus. Sharing of experiences between NPM’s had furthermore shown to be a good practice in relation to capacity building in the process of overcoming institutional challenges.

3. Detention practices

In some States’ reform of detention practices was necessary during a ratification process due to the existence of inadequate procedures to protect detainees. This issue could be addressed through peer-to-peer exchange of good practices which had been done between inter alia Chile and the Dominican Republic leaving good results.

4. Legal reforms

A need for comprehensive legal reforms due to inadequate or out-dated laws and the lack of a definition or clear criminalization of the crime of torture in national legislation constituted real challenges to UNCAT ratification. In many cases it had been necessary to carry out



meticulous legal reviews to check compatibility with UNCAT obligations which was a time-consuming and capacity demanding exercise. Yet legal reforms remained essential for the following meaningful implementation of UNCAT. Thailand had chosen to reform existing legislation to bring it in line with UNCAT standards whereas Uganda had domesticated UNCAT by adopting completely new legislation. Both examples constituted good practices.

5. Reporting obligation

The obligation of reporting to the Committee against Torture contained in UNCAT article 19 had by many States been given as a reason not to ratify as the reporting obligation was seen more as a burden than a profitable exercise and an opportunity for national reform dialogues. It was stressed that reporting should be seen as an incremental process and that States could receive valuable advice and support from OHCHR as well as from CTI along the way.

The Fiji experience

From the perspective of a State in the process of ratifying, the representative of Fiji informed seminar participants (see annex 5 for Fiji's presentation) that following the State's first Universal Periodic Review in 2010 where they had received recommendations to ratify UNCAT, Fiji had engaged in an internal consultation process with ministries, government officials and policing authorities directly or indirectly involved with torture prevention.

The stakeholders involved were asked to peruse all 33 articles of the Convention to identify their individual links or duty lines with the articles. The exercise had resulted in identification of duplicating roles between the involved stakeholders and had furthermore cemented the fact that existing legislation was already UNCAT compatible.

Involved stakeholders identified some steps that could be taken on the road to ratification, including intensifying awareness-raising on UNCAT obligations to officials and the general public as well as the promotion of transparency on investigations of allegations of torture. It was also suggested to include civil society organisations, faith based organisations and torture victims in the process.

Involved stakeholders furthermore pointed to legal reform, acceptance of UNCAT guidelines as well as the reporting obligation as probable challenges to UNCAT ratification.

In March 2015, the Fijian Parliament unanimously endorsed ratification of UNCAT stressing that this would send an important message to the international community that Fiji opposes any use of torture or cruelty as instruments of State policy. Furthermore, ratifying UNCAT would open up the possibility of increasing international assistance to Fiji to maintain the highest standard of behavior in the treatment of those who come before the law and those who are detained as criminal suspects. To support this, emphasis would be placed on training police officers, prison officers and members of the judiciary on international best practices for the interrogation of suspects and incarceration of prisoners.



Fiji's commitment to ratify UNCAT underlined the unprecedented protection that already existed in the Fijian Constitution. It also underscored a commitment to uphold basic human rights through reform, modernisation of laws and ratification of relevant international conventions on the continuing path to become a modern nation-state.

What the CTI can offer

The CTI Secretariat provided the participants with an overview of coming CTI activities which could be of particular interest for the States not parties to the Convention. Many of the activities focusing on inter-State cooperation would evolve around identifying obstacles to ratification and how to overcome them. The CTI would furthermore develop tools which could be helpful throughout both ratification and implementation processes (see annex 6 for the full CTI catalogue of activities for 2015). The CTI Secretariat exemplified coming activities:

Inter-state cooperation:

1. The CTI was currently organising an event in Costa Rica to take place in October with the Inter American Institute for Human Rights bringing senior figures from both States Parties and non-States Parties in the region together to share experiences related to challenges to ratification, and benefits of ratification. Senior figures from the Justice and Policing sectors in particular were expected to provide expert perspective on how ratification can lead to more professional policing and justice over the longer term.
2. The CTI would hold the annual CTI Forum in Morocco in December allowing for reflection on the current CTI strategy and planning for the coming year.

Tools

1. APT had developed the UNCAT ratification tool for the CTI and would furthermore initiate the development of a UNCAT implementation roadmap later in the year.
2. An online guide for drafting and revising torture laws intended to ease the process of national legal reforms would be finalized before the end of the year.
3. Finally, a CTI website would be up and running shortly from where all tools would be available.

The CTI Secretariat invited all seminar participants to provide comments or propose new ideas to the CTI activities on a rolling basis.



Annex 1: Invitation letter and seminar agenda

Convention against Torture Initiative 2014-2024



New York, 1 May 2015

Excellency,

The Permanent Missions of Chile, Denmark, Ghana, Indonesia, and Morocco as part of the Convention against Torture Initiative (CTI) have the pleasure of inviting non-States parties to the Convention against Torture (UNCAT) and members of the CTI Group of Friends¹ to a half day seminar:

“What does it mean and entail to be a State party to the UNCAT?”

Tuesday, 12 May 2015, from 1:30 to 6:00 pm

Delegates: Dining Room, Private Rooms 1-3, United Nations, New York

The seminar will be followed by a reception hosted by the CTI from 6:00 to 7:00 pm in

Delegates Dining Room, Private Room 5, United Nations, New York

The seminar will provide a forum to consider the benefits of UNCAT ratification to States, challenges to ratification and good practices to overcome them.

Participants will be introduced to the significance of the Convention as well as to a UNCAT ratification template – developed for the CTI by specialist NGO Association for the Prevention of Torture. A provisional agenda is annexed to this letter of invitation.

Kindly RSVP no later than Wednesday 6 May to CTI Project Officer, Ms. Signe Lind, at slind@aqchb.

Please accept the assurance of our highest appreciation.

Yours sincerely,

H.E. Mr. Cristian Barros, Ambassador of Chile
H.E. Mr. Ib Petersen, Ambassador of Denmark
H.E. Mr. Philbert Johnson, Charge d’Affaires of Ghana
H.E. Mr. Desai Percyva, Ambassador of Indonesia
H.E. Mr. Omar Hiale, Ambassador of Morocco

The CTI aims to achieve universal ratification and implementation of the UN Convention against Torture (UNCAT) before 2024 through joint state cooperation and by providing opportunities for sharing experience and good practices on UNCAT ratification and implementation.



Annex
Provisional agenda

13:30 – 14:00 Light refreshments

14:00 – 14:10 Objectives of CTI and the seminar

H.E. Mr. Omar Hiale, Ambassador of Morocco

14:10 – 15:30 Benefits of UNCAT ratification to States and presentation of the CTI ratification tool

Introduced by Mr. Anne Lamy, APT Legal Advisor

Moderated by Mr. Mark Thomson, APT Secretary General

15:30 – 15:45 Coffee break

15:45 – 17:15 Challenges related to UNCAT ratification and good practices to overcoming them

Introduced by Mr. Mark Thomson, APT Secretary General

Presentation of recent Fiji experience by Mr. Crane W. Bai from the Mission of Fiji

Moderated by a representative from the Permanent Mission of Ghana

17:15 – 17:45 What can the CTI offer?

Introduced by Mr. Signe Lind, CTI Project Officer

Moderated by a representative from the Permanent Mission of Chile

17:45 – 18:00 Sum-up and concluding remarks

H.E. Mr. Ib Petersen, Ambassador of Denmark

18:00 – 19:00 Reception hosted by the CTI

¹ Non-States parties to the Convention against Torture: Comoros, Cambodia, Sudan, Sao Tome and Principe, Angola, Central African Republic, Tanzania, Zimbabwe, India, Palau, Bhutan, Brunei Darussalam, DPRK, Fiji, Iran, Kiribati, Malaysia, Marshall Islands, Micronesia, Myanmar, Oman, Papua New Guinea, Samoa, Singapore, Solomon Islands, Tonga, Tuvalu, Bahamas, Barbados, Dominica, Grenada, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Suriname, Togo and Tobago

² CTI Group of Friends: Australia, Brazil, Costa Rica, Egypt, Finland, France, Georgia, Germany, Guatemala, Honduras, Italy, New Zealand, Norway, Poland, Slovenia, Sweden, Switzerland, Togo, Tunisia, Uganda, United Kingdom and Uruguay.



Annex 2: CTI concept note

Convention against Torture Initiative 2014-2024



The Convention against Torture Initiative (CTI)

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.

Vision

By 2024, universal ratification of UNCAT will be a reality. The risk of torture will be reduced as all States parties will be working actively to implement the Convention.

Objectives

The immediate objectives of the CTI are:

- To identify challenges and barriers to ratification and implementation of the UNCAT
- To address these obstacles through inter-State cooperation, assistance and dialogue.
- To become a hub for sharing knowledge and good practices between governments.
- To build a global platform of States, the UN, national and international NGOs and experts to work jointly to achieve the CTI vision.

Operating principles

Working by a principled framework of action consisting of three fundamental principles, the CTI is:

Constructive. The CTI takes a constructive approach to the push for ratification and implementation of UNCAT. It is not the role of CTI to “name and shame” but rather to support Governments in their efforts to pursue ratification of UNCAT and to implement the Convention.

Twining. 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.

Inspirational. CTI will inspire, not proscribe. CTI will inspire, facilitate and motivate. Inspire countries by exposing them to the experience of other countries; facilitate by creating a platform for informal meetings with experts and through the development of useful tools; and motivate by highlighting – in the UN and to the public - government efforts to ratify and implement the convention.

Organisation

The Initiative is spearheaded by the Governments of Chile, Denmark, Ghana, Indonesia and Morocco and supported by a full-time Secretariat.

The Association for the Prevention of Torture (APT) is designated to support the development of the CTI.

All UN Member States and relevant NGOs, experts, and academia are invited to join *the Group of Friends* of the CTI.

The Group of Friends will serve as a platform for the exchange of knowledge, experience and ideas on how to overcome obstacles to ratification and implementation of the UNCAT and will be engaged in the CTI through annual meeting in Geneva and New York.

The CTI Forum is the main annual event of the CTI and will provide a unique multi-stakeholder platform for sustained and informal exploration of the challenges related to UNCAT ratification and implementation.

Contact:

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Ms. Signe Lind, CTI Project Officer
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Annex 3: Opening remarks by Morocco – DPR Mr. Abderrazzak Laassel

Dear friends and colleagues,

Allow me first to welcome you all, on behalf of the core group of the Convention against Torture Initiative to this half day seminar on the theme: **“What does it mean and entail to be a State party to the UN Convention against Torture?” (UNCAT).**

As you all know, at the occasion of the 30th anniversary of the UN Convention against Torture, our five countries, Chile, Denmark, Ghana, Indonesia, and Morocco, launched in March 2014 in Geneva, the **“Convention against Torture Initiative 2014-2024” (CTI)** with the aim to support States to overcome obstacles for ratification and to explore good practice and technical assistance in the implementation of the Convention. In September last year, a similar launching event was organized here in New York on the margins of the high level segment of the General Assembly.

All Member States of the United Nations have pledged to achieve the promise of the Universal Declaration of Human Rights: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Torture is never, under any circumstances justified. However, we are still far from keeping this promise. Our Group believes that we can and we must do a better job to protect all persons from torture and ill-treatment in all parts of the world.

To achieve the ultimate goal of this 10 years commitment, namely the universal ratification of UNCAT, new thinking, constructive collaboration and shared responsibilities are required. This is why the CTI offers a set of tools and activities that are made available to States and other relevant stakeholders. I will not go into the details of these tools and activities, as they will be further developed throughout the course of this seminar.

I will focus on the CTI Forum and the Group of friends:

* The CTI Forum is a discussion platform aiming at addressing obstacles hindering universal respect and full implementation of the Convention. The first Forum was held in September 2014. It brought together high-level government representatives from 18 countries from all regions of the world and leading UN experts to discuss solutions to Governments’ challenges in the fight against torture. The Forum participants identified obstacles and challenges to ratification and discussed how governments can help each other to overcome these challenges.

* The Group of friends of the CTI is open to Governments, civil society organizations and experts working on the field of fighting torture. It was launched in Geneva in September 2014. When becoming a member of this group, Governments have priority access to assistance offered through CTI, while Non-Governmental friends are priority partners for implementing CTI activities. Friends of the CTI are kept informed about achievements,



progress and development of the CTI through annual meetings. They can also be invited to the annual CTI Forum where strategy discussions will take place.

Dear friends and colleagues,

Our today's seminar is at the heart of the efforts of our core group in the promotion of the ratification of UNCAT. It aims at providing States with a forum for discussion and exchange of views about challenges to ratification of UNCAT and good practices to overcome them. The objective is to encourage non-State parties to UNCAT to consider the benefits of the ratification of this important instrument.


Our distinguished panelists today will introduce participants to the significance of the Convention and provide them with useful data and tools that would be helpful in this regard.

In this regard, I would like to underline that all discussions will take place under Chatham House Rule. I encourage you all to actively engage in the different discussions, including by sharing your national experiences related to obstacles and barriers to UNCAT ratification.

I thank you for your attention.




Annex 4: UNCAT presentation – Ms. Anne Lardy, APT Legal Adviser


 association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture

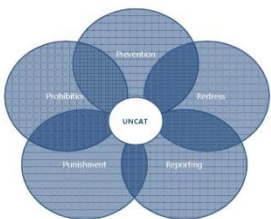
Benefits of UNCAT ratification Presentation of CTI ratification tool

Anne Lardy
APT Legal Advisor
New York, May 2015

 **Themes for examination**

1. Presentation of the main obligations of the UNCAT
2. Benefits of UNCAT ratification to States
3. Presentation of the CTI ratification tools

 **1. Presentation of the UNCAT –
Principal obligations**



The diagram features a central white circle labeled 'UNCAT' surrounded by five overlapping blue circles, each containing a principal obligation: 'Prevention' (top), 'Prohibition' (left), 'Punishment' (bottom-left), 'Reporting' (bottom-right), and 'Redress' (right).



apt **Prohibition against torture and other ill-treatment**

- Obligation not to torture: definition of torture
- Absolute right
- Non-refoulement clause
- Torture as a crime
- Exclusionary rule

apt **Prevention**

- General obligation
- Exclusion of torture-tainted evidence
- Systematic review of procedures
- Visits by independent experts
- Safeguards in custody



apt **Punishment**

- Complaints process
- Duty to investigate
- Extradition or prosecution
- Mutual legal assistance





apt **Redress for victims**

- Preliminary issues
- Remedies - access to justice
- Forms of reparation
 - ❖ Restitution
 - ❖ Compensation
 - ❖ Rehabilitation
 - ❖ Satisfaction
 - ❖ Guarantees of non-repetition



apt **The duty to report**

- Initial report and periodic reports
- New simplified reporting procedure
- Other optional procedures
 - ❖ Confidential inquiries
 - ❖ Inter-State communications
 - ❖ Individual communications

apt **2. Benefits of UNCAT ratification to States**

- Restore confidence in the State
- Commit to existing pledges
- Promote good governance and security
- Bring perpetrators to justice
- Address the needs of victims
- Benefit from international support



apt Restore confidence in the State

- Prohibition of torture absolute: States bound by this prohibition
- UNCAT helps States to implement this obligation
- Build confidence and faith in the rule of law

apt Commit to existing pledges

- International community encourages universal ratification
- States have already committed to ratify or to examine ratification
 - Universal Declaration on Human Rights
 - UPR
 - UNGA torture resolution

apt Promote good governance and security

- Mapping for legal conformity will bring legal, policy and institutional reforms
- Good opportunity to continuously review rules, procedures and practises
- Promote a system of accountability and international review



apt Bring perpetrators to justice

- Need for clear legal grounds and effective prosecution
- Adoption of laws and extradition procedures
- Deterrent effect

apt Address the needs of victims

- Victims too often unheard
- UNCAT gives them a voice and rights to obtain redress
- Different forms of reparation foreseen

apt Benefit from international support



- States benefit from guidance by the Committee against Torture
- Other States or organisations more willing to assist



apt 3. CTI ratification tool



apt A template for executive actors

1. Willing to examine ratification, but have a number of questions which must first be answered.

2. Information needed to recommend UNCAT ratification for government actors.
3. Answers several of the most common questions raised by States.


apt Financial implications of ratification

- Implementation requires time and money
 - ❖ Legal and policy reform
 - ❖ Introduction of safeguards
 - ❖ Compensation and rehabilitation
 - ❖ Training of staff
- Costs may be spread across many years, or
- Incorporated into existing national reforms
- Assistance is available – CTI and others



apt Priorities on ratification

- Mapping for legal conformity

apt Priorities on ratification

- Mapping for legal conformity
- Developing a domestic roadmap

apt Priorities on ratification

- Mapping for legal conformity
- Developing a domestic roadmap
- Mainstreaming training



apt **Priorities on ratification**

- Mapping for legal conformity
- Developing a domestic roadmap
- Mainstreaming training
- Preparing an effective initial report



apt **When to ratify?**

“States should see ratification as the start of a process which brings them into compliance with obligations over time, through the mechanisms described in the Convention”

- Claudio Grossman, Chairperson of the CAT

apt association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture



Annex 5: The Fiji Experience – by Mr. Gene Bai, Permanent Mission of Fiji to the UN

Excellences,
Colleagues,
Ladies and Gentlemen

It is an honour and a pleasure for me to share with you Fiji's experience in its effort in ratifying the United Nation Convention against Torture (UNCAT). I also would like to thank the organizers in inviting Fiji to participate at this workshop

After Fiji appeared before the Human Rights Commission in 2010, 97 recommendations were accepted by Fiji out of a total of 106 recommendations. One of the recommendation was for Fiji to ratify UNCAT.

I was assigned by the Ministry of Foreign Affairs to compile Fiji's report on the 97 recommendations before 2014. In the process of compiling and collating Fiji's report, we consulted and liaised with the Association for the Prevention of Torture (APT), especially with Mr. Mark Thomson concerning the ratification of UNCAT. It was through this consultation with APT that we were advised of the way forward.

We were advised to have a workshop on UNCAT and instead we held two workshop. The first workshop was for all agencies within the Government machinery that either had direct or indirect link with torture and the second workshop was limited to our Police Officers.

In preparation for the workshop and ratification of UNCAT we developed two matrix capturing all the UNCAT provisions and two columns were left blank for stakeholders to identify beside the UNCAT provisions if that provisions relate to their work or line of duty. These matrix were collected from the respective agencies and during the workshop and consultation with the agencies, we found out that we had in place laws that were UNCAT compatible.

Purpose of the Workshop

The workshop aimed at disseminating information on UNCAT and form a base for discussion and follow up on the ratification of UNCAT for Fiji's Universal Periodic Review (UPR).

Outcome

It was discussed that in order to follow up on the 97 recommendations, ratifying the UNCAT is necessary. To begin the process of ratifying involves the process of putting in torture preventative measures. These include: opening up places of detention to independent monitoring, identifying risk factors that may lead to ill-treatment, formulation of laws and detention policies, capacity building of police, lawyers, judges, and prison staff, review of the



detention practices, such as interrogations, restraints, lock-ups, proper disciplinary procedures, and protection of vulnerable groups.

It was noted that Fiji already has fundamental domestic laws put in place. The Crimes Decree, Domestic Violence Decree, and Child Welfare Decree have the provisions to criminalize acts of torture and degrading treatment. Our judicial system has also condoned acts of torture and degrading treatments, for example, corporal punishment at schools are no longer legal, even the courts cannot impose death or corporal punishment for most serious offences. Since Fiji has these laws in place, ratification of UNCAT could be easily done with an added advantage of placing greater sense of responsibility on the State and its agents for strict compliance of the UNCAT provisions.

During the group activities, the participants came up with good suggestions on the next steps in moving towards ratifying UNCAT. These included:

- More training for officers and general public to increase awareness obligations
- More awareness of legislation – e.g. crimes decree, and review of Criminal Procedural Code
- Promote transparency in how investigations are conducted into allegations of torture
- Training on international minimum rules and UNCAT
- Wide consultation – two phases, first within government and then with civil society. Features to include, scoping definition of torture: national context, realistic, internationally accepted. Comment: think about timing & how long it would take.
- Review existing laws and conduct comparative assessment
- Including different stakeholders such as: Civil society / NGOs, Government organizations, Defence, Police, Corrections, Immigration, MoFA, Health (reports made by doctors), Statutory bodies, Faith based organizations, Development partners, Victims of torture – to give information on levels of torture occurring, Judiciary, Human rights commission, and Media (has a vital role in reporting of torture).

Challenges

Some of the challenges to ratifying UNCAT could be the reform and acceptance of the UNCAT guidelines, and meeting reporting obligations.

The Process of Ratification:

Parliament unanimously endorsed the ratification of the United Nations Convention against Torture (UNCAT) on 16th March 2015. The Motion was presented in Parliament by Prime Minister and Acting Minister for Foreign Affairs Voreqe Bainimarama (according to Standing



Orders Section 130 for the purpose of Section 51 of the Constitution) who moved the motion on behalf of Government for the ratification of the Convention. This was done after the report was presented by the Chairperson of the Standing Committee on Foreign Affairs and Defence (in compliance with Standing Orders Section 121) for the ratification of UNCAT earlier in the day.

In Presenting the Motion, Acting Minister for Foreign Affairs mentioned that the Constitution (Section 11, of the Bill of Rights) already protects the right of Fijians to freedom from torture of any kind-whether physical, mental or emotional and from cruel, inhumane, degrading or disproportionately severe treatment or punishment. In this regard, ratifying the International Convention strengthens our opposition to torture in the global community. Acting Minister for Foreign Affairs further noted that the Government's decision to ratify the UNCAT sends an important message to the international community, that Fiji opposes any use of torture or cruelty as instruments of State policy. The Acting Minister for Foreign Affairs further stated that Fiji is determined to fight torture and cruelty in all forms, and to affirm human dignity, fairness and the rules of law as core values in Fiji. The motion presented highlighted that the ratification of UNCAT also opens up the possibility of a lot more international assistance to Fiji, in maintaining the highest standard of behavior in the treatment of those who come before law, and especially those who are detained as criminal suspects.

Acting Minister for Foreign Affairs mentioned that Government now has the intention to train Police officers, Prison Officers and members of the Judiciary on international best practices for the interrogation of suspects and incarceration of prisoners. This will also filter down to the updating of the Training Manuals of the Police and Prison services to incorporate best practice into day to day protocols in which our law enforcement agencies operate after the ratification of UNCAT. The Fiji Police Force and Republic of Fiji Military Forces positively accepted the move of ratification of UNCAT.

Reservations:

Fiji will ratify the UNCAT with two Articles under reservation which include; Article 21 – where Fiji does not recognize the Competence of the Committee to receive interstate complaints. Article 22: where Fiji does not recognize the competence of the Committee to receive individual complaints. (NB: New Zealand has placed the same two Articles under reservation also).

Conclusion

The Fijian Constitution already says that every person has the right to freedom from torture of any kind, whether physical, mental, or emotional, and from cruel, inhumane, degrading or disproportionately severe treatment or punishment.

This provision in our supreme law provides Fijians with a level of protection from torture and abuse that is unprecedented in Fiji's history and is superior to that afforded by a great many countries. The Government is determined to not only adhere to the highest standards of



justice, fairness, transparency and accountability in our own laws but also subscribe to the highest international codes of behavior embodied in the United Nations conventions.

Fiji's decision to formally ratify the United Nations Convention Against Torture sends an important message to the international community. It tells the world that we are willing to stand shoulder to shoulder with those nations who oppose any use of torture or cruelty as instruments of state policy. Also, for Fijians, torture is unacceptable under any circumstances and we are siding with those nations who are intent on upholding the human rights of their own citizens and the citizens of every country.

Fiji is determined to fight torture and cruelty in all its forms and to affirm human dignity, fairness, justice and the rule of law as our core values as a nation.

Section 11 of the Bill of Rights in our Constitution already protects all persons in Fiji from torture, cruel and inhumane treatment and punishment and disproportionately severe punishment. It protects every Fijian from all forms of physical, mental and emotional harm.

This definition of "harm" goes even further than the UNCAT definition of torture. So Section 11 of our Constitution arguably provides one of the strongest domestic protections against torture in the world. It extends to specific protection at home, at school and at work. In ratifying UNCAT, Fiji goes a step further by strengthening its opposition to torture in the global community generally.

It strengthens its position in all the human rights agencies of the United Nations and sends a message to all countries – most of which are already parties to UNCAT – that Fiji is serious about protecting individual rights and freedoms. It defines as one of the nation's upholding the highest standards of behavior towards its citizens. It places Fiji in the frontline of opposition to torture and it tells the world that we are serious about protecting the human rights of every Fijian.

Fiji intends to train our Police officers, prison officers and members of the judiciary on international best practice for the interrogation of suspects and the incarceration of prisoners.

There are a number of countries that are already willing to engage with us on training and assistance on the implementation of the Convention and we look forward to receiving their help as we strive for world's best practice in this area.

Once UNCAT is ratified, we will update the training manuals of the Police and prison service to incorporate best practice into the day-to-day protocols on which our law enforcement agencies operate. Our commitment to ratify UNCAT is an important step for Fiji as it underlines the unprecedented protections that already exist in our Constitution. It places Fiji in the ranks of those countries at the forefront of the fight for human rights and against those who practice cruel and inhumane measures against their citizens and it is a



cornerstone of Fiji's determination across a broad front to reform and modernize its laws and ratify relevant international conventions on our continuing march to becoming a modern nation-state.

There are some exceptions that are necessary in the ratification of UNCAT, given the competencies that exist in Fiji and the fact that there will be further specialization in this very important area of human rights.

Hope you enjoyed hearing Fiji's experience and hopefully I have encouraged those of us who are yet to ratify UNCAT.

Thank you



Annex 6: CTI Catalogue of Activities 2015

Introduction

Based on inputs and discussions during the first CTI Forum, the present catalogue of activities for 2015 has been developed by the five governments behind the CTI.

Activities fall within a principled framework of action – or a “CTI brand” – consisting of three fundamental principles:

Constructive

The CTI takes a constructive approach to the push for ratification and implementation of UNCAC. It is not the role of CTI to “name and shame” but rather to support Governments in their efforts to pursue ratification of UNCAC and to implement the Convention.

Twinning

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.

Inspirational

CTI will inspire, not proscribe. CTI is not an authority on the UNCAC and it will not proscribe and lecture. CTI will inspire, facilitate and motivate. Inspire countries by exposing them to the experience of other countries; facilitate by creating a platform for informal meetings with experts and through the development of useful tools; and motivate by highlighting – in the UN and to the public - government efforts to ratify and implement the convention.

In the implementation of activities, the CTI will seek the active involvement and contribution of relevant States, experts and NGOs, giving priority to the active engagement of the CTI Group of Friends.

This briefing of planned activities for 2015 is composed of two parts. A **summary** of activities is followed by a **detailed description** of each activity planned in 2015.



2015 Catalogue Summary

1. Outreach and support to non-State parties	
<i>Regional outreach mechanism</i>	Offering hands-on support for UNCAT ratification; discussing barriers and possible solutions to ratification issues, building awareness of support and cooperation with OHCHR, the CTI, and others.
<i>Seminar on UNCAT and OPCAT ratification (New York)</i>	To improve awareness of UNCAT and OPCAT ratification obligations.
2. Sharing experiences	
<i>Regional meetings</i>	Intra-regional exchange of experience and ideas on UNCAT ratification and implementation.
<i>Exchange on States' reporting obligations</i>	Expert and peer-to-peer assistance to help States recognise good practices and overcome obstacles in reporting to the CAT.
<i>Knowledge Hub of dissemination and training materials</i>	Sharing good practice examples to assist public dissemination and training on UNCAT obligations.
<i>List of national experts</i>	To facilitate technical assistance, a list of experts will be developed over time and evolve to respond to concrete needs.
3. Tools	
<i>Template for UNCAT ratification</i>	To provide a set of materials responding to urgent questions on ratification and implementation of the Convention.
<i>Model roadmap for UNCAT implementation</i>	Building on existing good examples and experiences, the roadmap will provide examples, advice and ideas on ways in which implementation of the UNCAT might be approached.
<i>Online guide for drafting and revising torture laws</i>	To facilitate legal reform, an online collection of anti-torture legislation will be published with commentaries from the CAT.
4. Highlighting good practice	
<i>Annual CTI events, press releases and statements</i>	To motivate and inspire governments by celebrating governments that ratify UNCAT and OPCAT or stand out in terms of implementation efforts.
<i>Development of a CTI website</i>	To have a visible and active online presence.
<i>Group of Friends Newsletter</i>	Regular communications to CTI friends, offering opportunities for increased cooperation and explaining how friends can assist the continuous development of the Initiative.
5. Monitoring and strategy	
<i>Identification of CTI development indicators (internal)</i>	To periodically measure the development and success of the CTI.
<i>Continuation of the development of UNCAT indicators</i>	To assist in the development of indicators relevant for UNCAT ratification and implementation.
<i>Annual CTI Forum</i>	To take stock of developments and achievements for the CTI and to facilitate a platform for thematic discussions.



Detailed Catalogue of Activities 2015

1. Outreach and support to non-State parties

1.1. Regional outreach mechanism

Objective: To offer support for UNCAT ratification with strategically selected governments.

Rationale: Consensual high level outreach will be aimed to ensure that the goal of universal ratification will be reached by 2024.

Description: Outreach shall be tailored to suit each target country, but could for example be a high-level person with anti-torture expertise in his or her own region who would visit non-States parties to discuss barriers and possible solutions to ratification, build awareness of support facilities and encourage collaboration with OHCHR, the CTI, or other opportunities aimed towards treaty ratification and implementation.

Target group: Non-States parties.

1.2. Seminar on UNCAT and OPCAT ratification implications

Objective: To improve governments' awareness of the national requirements stemming from UNCAT and OPCAT ratification.

Rationale: Non-States parties note that ignorance of what being party to the UNCAT entails might keep some States from ratifying relevant treaties. Convening a meeting specifically targeting non-States parties should open up for the possibility of countering misunderstandings and answering some questions common to States who have yet to ratify.

As the OPCAT is a key part of the UNCAT implementation, such a seminar could also usefully raise awareness of the OPCAT, and demystify some of the questions over what this operational treaty involves.

Description: A seminar for relevant government representatives in New York on what it means and entails to be a party to the UNCAT and the OPCAT. The seminar shall be held in cooperation with OHCHR and academic institutions or intergovernmental bodies. To promote free exchange of ideas, the meeting shall apply the Chatham House rule.

Target group: Non-States parties to UNCAT and OPCAT.

2. Sharing experiences

2.1. Regional meetings

Objective: To improve intra-regional exchange of experience on UNCAT ratification and implementation.

Rationale: Participants at the CTI Forum recommended that the CTI should engage with forums at the regional level, to address the commonality of challenges and promoting regional dialogue and experience sharing. It is well understood that regional partners can help their close partners



to implement the UNCAT, and regional meetings can encourage States to learn good practices and overcome challenges together.

Description: In cooperation with relevant regional partners and through the leadership of one of the countries behind the CTI, high-level and expert meetings shall be organised. The objective of these meetings would be to facilitate platforms for dialogue on a pre-selected topic so as to focus the discussions and to receive concrete inputs for action.

Target group: States parties and non-States parties.

2.2. Exchange on States' reporting obligations

Objective: To assist States in the preparation of their initial or periodic reports to the CAT through expert and peer-to-peer assistance.

Rationale: Participants at the CTI Forum observed that the preparation of a report for the CAT often served as an opportunity to raise awareness among stakeholders and push forward necessary legal reforms. However, many initial and periodic reports from States parties remain outstanding. Preparing a report requires planning and coordination, and the CTI could usefully respond to what some States see as a reporting burden.

Description: The CTI should facilitate exchanges between States that have recently reported to the CAT, and those who have not yet been able to report. Doing so builds a platform for exchange between States and helps States recognise good practice and overcome obstacles in reporting.

Target group: States parties whose periodic reports to the CAT are overdue (by a significant amount of time).

2.3. Development of Knowledge Hub of States' experiences on dissemination and training

Objective: To assist national efforts related to public dissemination and training of relevant public authorities in UNCAT obligations.

Rationale: Participants at CTI Forum stressed that training for all relevant State actors as well as awareness-raising of the general public is essential for effective UNCAT implementation, and that insufficient capacity to provide this is a key barrier.

Description: Through the collection of good practice examples, the CTI will establish a 'hub' for sharing national experiences on how to train and raise public awareness of the UNCAT, its content and obligations between governments so as to prepare all relevant stakeholders in all sectors for the obligations that come with UNCAT ratification.

Target group: States parties and non-States parties

2.4. Establishment of a list of national experts

Objective: To facilitate technical assistance to UNCAT ratification/implementation.

Rationale: The involvement of treaty implementation and anti-torture expertise is of paramount importance to facilitate proper advice and guidance on ratification and implementation equally so as to reach the goal of the CTI.



Description: The list of experts – which will be developed over time and evolve with concrete needs – will consist of experts from States Parties and relevant bodies and NGOs who are able to assist other States parties or States who are going through the ratification process or responding to the challenges of implementation by providing legal advice, technical assistance and other expertise.

Target group: States parties, relevant bodies and NGOs in terms of the provision of experts; and States parties as well as non-States parties as recipients of the assistance.

3. Tools

3.1. Template for UNCAT ratification

Objective: To provide materials designed to answer governments' critical questions about ratification and implementation of the Convention.

Rationale: State actors have limited capacity to research and give briefings on the implications of UNCAT ratification. This may be a fairly easily surmountable barrier to ratification.

Description: A short explanatory briefing to enable State actors to advise their government on the Convention and, where appropriate, to recommend ratification. The template would describe the background to the UNCAT; the obligations to the Convention; and priorities on ratification, such as preparing an initial report and mapping for legal conformity.

Annexes should provide additional detail and answer frequently asked questions, such as when should a State ratify; when is a State likely to be reviewed; does the Convention have retroactive effect; Who can help with implementation; What is the OPCAT; etc.

Target group: Non-States parties.

3.2. Roadmap on UNCAT implementation

Objective: To facilitate governments' planning efforts related to UNCAT implementation.

Rationale: UNCAT ratification comes with a number of implementation obligations. The lack of an overview of the scope of these obligations can, for some governments, be an impediment to ratification.

Description: The roadmap will be built on existing examples and experiences by a number of States Parties and will be designed to provide examples, advice and ideas to non-States Parties and States Parties on ways in which implementation of the UNCAT might be approached. The roadmap will be non-prescriptive in its format but will provide examples of good practices on implementing legislation and on implementation obligations in general. The roadmap could be developed in connection with the online guide for drafting anti-torture laws (immediately below).

Target group: States parties and non-States parties to the UNCAT.

3.3. Online guide for drafting and revising torture laws

Objective: To facilitate legal reform processes linked to ratification of UNCAT.



Rationale: Complicated revisions to penal and procedural laws needed to effectively implement the UNCAT were highlighted as a common barrier to ratification during the CTI Forum.

Description: Develop an online collection of existing anti-torture legislation where good legislation models and individual provisions are highlighted by commentaries from the CAT and other expert sources.

Target group: States going through legal reform in order to implement Convention obligations.

4. Highlighting good practice

4.1. Annual CTI events, press releases and statements

Objective: To motivate and inspire governments by celebrating States that ratify UNCAT and OPCAT or stand out in terms of implementation efforts.

Rationale: To heighten governments' political benefits - internationally and with their own populations - related to ratification and implementation of UNCAT.

Description: The governments behind the CTI will deliver statements during the Human Rights Council sessions and the General Assembly, host thematic side events, celebrate the annual CAT anniversary and issue press releases when there are new States parties to the UNCAT.

Target group: UN member States, regional and intergovernmental organizations, civil society, and the media.

4.2. Development of a CTI website

Objective: To have a visible and active online presence of the CTI.

Rationale: The CTI currently has its own page on the APT website and on the website of the Danish UN Mission. However, in order for the CTI to be known as widely as possible in as many fora as possible and to be able to establish databases and knowledge hubs, it is essential that the CTI has its own online presence.

Description: The CTI website will contain general information about the Initiative, its activities, the Group of Friends and its members, annual reports etc. The website would also be the "hub" for knowledge sharing and would host the guide for drafting and revising torture laws as well (see above).

Target group: States, civil society, experts and all other interested stakeholders.

4.3. Group of Friends Newsletter

Objective: To encourage CTI Friends to work towards CTI objectives, giving Friends opportunities for increased cooperation and explaining how they can assist the development of the Initiative.

Rationale: CTI Friends have asked what it means to be a 'Friend' of the Initiative. A periodic newsletter shared with all Friends will communicate news and ideas and help establish a shared sense of commitment. It shall also serve as a tool for Friends to see how they could be, should they choose to be, more involved.



Description: A newsletter will be drafted and delivered periodically, with news of what is happening, what is coming up, how Friends can be more involved, and resources that are available.

Target Group: to be shared with Friends of the CTI and published on the CTI website.

5. Monitoring and strategy

5.1. Identification of CTI development indicators (internal)

Objective: To continuously measure the development and success of the CTI.

Rationale: In order for the CTI to continue as a meaningful and successful initiative, it will need to make periodic self-assessments so as to make changes in direction, targets or strategies if need be.

Description: Via identified indicators, the CTI will be able to measure its own success, achievements and developments which is essential to the meaningful continuation of the Initiative. The activity should be seen as an internal monitoring and evaluation activity.

Target group: CTI core group.

5.2. Continuation of the development of UNCAT indicators

Objective: To help identify gaps and measure developments on UNCAT ratification and implementation.

Rationale: The use of indicators has accompanied the development of human rights to show quantitative and qualitative developments in their achievement. States themselves collect data and are pleased to show the progress in their fulfilment of human rights. Towards this end, the OHCHR has undertaken work to prepare indicators for a number of core human rights. A focused series of indicators that illustrate how UNCAT implementation may be measured, assessed and developed would assist States in their implementation of UNCAT obligations.

Description: Various indicators may be considered, both in scope and form. The final series of indicators, how they will be assessed and what they will measure has yet to be agreed. Further collaboration with OHCHR and CAT experts is anticipated in 2015.

Target group: States parties, OHCHR, civil society.

5.3. Annual CTI Forum

Objective: To take stock of developments and achievements for the CTI and to facilitate a platform for thematic discussions among participants.

Description: The CTI Forum is the annual meeting where States (selected from the Group of Friends) and relevant partners will be invited to discuss a pre-selected theme under the leadership of the governments behind the CTI.

Target group: States and partners with relevant expertise to the specific theme.