



CONVENTION AGAINST TORTURE INITIATIVE
[CTI2024.ORG](https://cti2024.org)

UNCAT RATIFICATION TOOLKIT

A toolkit for taking executive action on ratifying or
acceding to the UN Convention against Torture and Other
Cruel, Inhuman or Degrading Treatment or Punishment



association for
the prevention
of torture

The first and second editions of the Ratification Tool were prepared for CTI by the Association for the Prevention of Torture (APT). Subsequent editions have been prepared by the CTI Secretariat.

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CONTENTS



WHAT IS THE UN CONVENTION AGAINST TORTURE?..... 5

WHAT ARE THE MAIN OBLIGATIONS OF UNCAT? 5

WHY RATIFY UNCAT?..... 8

WHAT IS THE OPTIONAL PROTOCOL TO UNCAT? 9

WHAT ARE THE FINANCIAL IMPLICATIONS OF TREATY IMPLEMENTATION? 9

WHAT ARE THE PRIORITIES ON UNCAT SIGNATURE OR RATIFICATION/ACCESSION? 11

HOW CAN CTI AND OTHER INTERNATIONAL PARTNERS
ASSIST STATES WITH RATIFICATION AND IMPLEMENTATION? 15

ANNEXES 16

UNCAT

This toolkit has been drafted to include information needed for executive actors and departments to present a paper to government recommending UNCAT ratification.¹

Several pull-out annexes accompany this tool that are intended to support this briefing, and offer answers to several of the most common questions raised by States as they move toward ratification.

¹ The term ratification is used here for simplicity, but is equally intended to refer to accession.

WHAT IS THE UN CONVENTION AGAINST TORTURE?



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” (article 5).

The 1984 UN Convention against Torture (UNCAT) provides States with detailed provisions which establish the essential aspects of effective torture prohibition and prevention, to fulfil this shared promise.

WHAT ARE THE MAIN OBLIGATIONS OF UNCAT?



There are 16 substantive articles of UNCAT which describe the obligations to respect, protect and fulfil the absolute prohibition against torture and other forms of ill-treatment, and various additional procedural provisions. As with other human rights treaties, UNCAT is not prescriptive in how the articles should be achieved. This is deliberate, and encourages States to develop laws, policies, practices and mechanisms that conform to their own unique context and character while complying with the obligations of UNCAT.

On ratification, all the obligations of UNCAT become binding legal commitments. However, it is important to note that States do not have to achieve UNCAT obligations prior to ratification. Ratification is the beginning of an incremental process to implement the Convention which takes many years to achieve. See *‘When to ratify UNCAT and OPCAT’ for more information.*

Principal Convention obligations may be grouped together under the headings of prohibition, prevention, punishment, redress and reporting.

PROHIBITION: The status of the absolute prohibition against torture or to cruel, inhuman or degrading treatment or punishment is a non-derogable principle of international law.

The prohibition includes not just the obligation of States not to torture (article 1), but also the corollary obligations not to send persons to places where they may be tortured (article 3), and the obligation not to benefit from the fruits of torture (article 15).

States should ensure that the absolute prohibition against torture and other ill-treatment is adequately reflected in their domestic legal order, and included in the training materials of all relevant State actors (article 10).

PREVENTION: States must take effective legislative, administrative, judicial or other measures to prevent acts of torture (articles 2 and 11) and other ill-treatment (article 16).

UNCAT does not list the measures that must be taken by States, only requiring that the measures be effective in practice.² Various measures may therefore be undertaken by States.

Institutionalising safeguards against torture, such as providing early access to a lawyer and independent inspection of detention facilities, are recommended by the Special Rapporteur on torture among other experts as particularly effective measures to prevent torture and other forms of ill-treatment.³

PUNISHMENT: All acts of torture must be investigated and prosecuted. States should ensure that a specific offence of torture is included in domestic law (article 4) and that all complaints are investigated (articles 5-9 and 12-13). Where there are reasonable grounds to believe torture has taken place, the alleged perpetrator should be prosecuted.

REDRESS: Victims of torture should be able to obtain redress and have an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible (article 14).⁴

² The Committee against Torture has published a comment to help States parties understand this obligation and how to effectively prevent torture. See CAT, General Comment N°2, CAT/C/GC/2, 24 January 2008.

³ See *General Recommendations of the Special Rapporteur on torture*, E/CN.4/2003/68, §26.

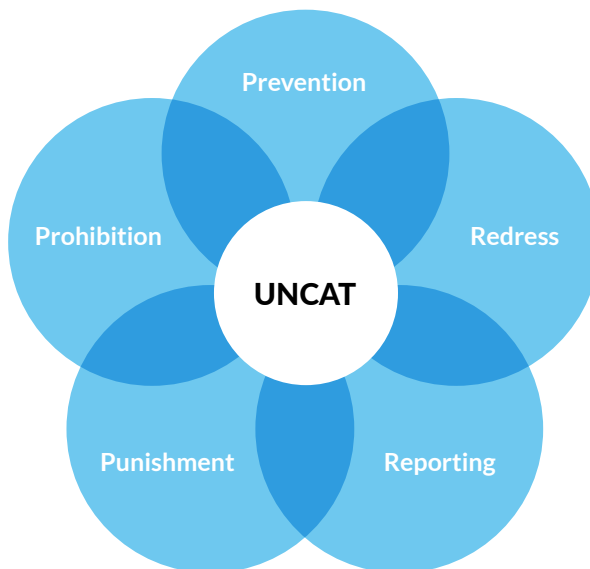
⁴ Please refer to CAT, General Comment N°3, CAT/C/GC/3, 16 November 2012, in which the Committee examines the obligation to provide redress in detail.

States should adopt legislation to provide victims with effective remedy and the right to obtain adequate and appropriate redress. Such remedies must be available against the State and not just as a civil complaint against the perpetrator, and be effective in practice.

REPORTING: All States parties should provide the Committee against Torture with periodic reports describing the steps they have taken to implement the Convention.

Pursuant to article 19 of the Convention, States parties must provide an initial report to the Committee against Torture within one year of ratification. See *'Initial Reports to the Committee against Torture, General Guidelines'* for more information. Periodic reports are due every four years after the initial review.

Principal obligations of UNCAT



In addition to these binding obligations, further provisions offer 'voluntary' mechanisms which may be either reserved on ratification (articles 20 and 30) or take effect only when they are adopted by the State party (articles 21 and 22). See the separate briefing on *'Reservations and Declarations'* for more details. Expert advice should always be sought prior to ratification to ensure that each obligation is fully understood.

WHY RATIFY

THE UN CONVENTION AGAINST TORTURE



There are many good reasons why so many States have ratified the UN Convention against Torture.



The Convention commits and guides States, through an **incremental process of improvement**, on effective torture prohibition, prevention, punishment and redress for victims



Ratification sends a **powerful message** that the ratifying State and the international community are united in their conviction that torture can never be tolerated under any circumstances.



Almost uniquely amongst human rights treaties, UNCAT contains a **practical list** of steps to prevent torture and ill-treatment or punishment, while giving States adequate **flexibility** to tailor them to their own national context.



The Convention strengthens the rule of law and the **administration of justice**, facilitates effective law enforcement and produces safer and well-managed **prisons**. This promotes stability, economic investment and the **Sustainable Development Goals** (especially SDG16).



Ratification also provides a unique opportunity to redefine the relationship between **the State and its citizens**. It gives space for governments to correct historic or more recent incidents of violence or discriminatory policies, to abolish harmful practices, and to give voice to victims of torture to speak their truth. In so doing, relevant sectors raise awareness of appropriate standards of conduct.



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ABOUT THE CONVENTION AGAINST TORTURE INITIATIVE (CTI)

In 2014, the Governments of Chile, Denmark, Fiji,* Ghana, Indonesia and Morocco launched a state-led ten-year global initiative for the universal ratification and implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT or the Convention).

The objectives of the CTI are: to identify challenges to ratification and implementation of UNCAT; to address these obstacles through inter-State cooperation; to become a hub for sharing knowledge and good practices between governments; and to build a global platform of States, the UN, NGOs and experts to work jointly towards CTI's goal.



Ratification processes generally involve **consultations** with a number of stakeholders, with the effect of improving transparency and increasing public trust in State institutions and authorities.



Becoming party to UNCAT can support States to put in place **safeguards** to prevent torture and ill-treatment and to provide remedies for victims. It provides an opportunity to review, improve or update existing **laws, regulations, policies and procedures**.



Ratification also provides an impetus for enhanced **training** of law enforcement and other actors, and allows for exchanges between States on good practices and challenges.



Ratification of UNCAT builds **mutual confidence** between States, relevant in such matters as non-refoulement and extradition.



Ratification can lead to greater **international support** for needed **domestic reforms** in relevant sectors.

WHAT IS THE OPTIONAL PROTOCOL TO UNCAT?



The Optional Protocol to the UN Convention against Torture (OPCAT) is designed to give States the practical assistance needed to effectively prevent torture and other forms of ill-treatment, and significantly help fulfil the obligations of UNCAT.

OPCAT does not set new norms or standards. It instead establishes a system of regular visits to all places of detention, conducted by national and international bodies, which work in close cooperation with national authorities, identifying gaps in laws and practice to protect the rights and dignity of all persons deprived of their liberty.

A State may ratify the Optional Protocol at the same time as, or at any time after, ratifying UNCAT.

WHAT ARE THE FINANCIAL IMPLICATIONS OF TREATY IMPLEMENTATION?



As with all human rights treaties, effective implementation of UNCAT is not without financial implications, and the costs associated with necessary legal and policy reforms, the introduction of safeguards against ill-treatment in detention, awards of compensation to victims, or the training of staff, are commitments that come with financial considerations.

However, States which already demonstrate a good level of legislative compliance with international torture prevention standards experience comparatively few costs associated with UNCAT implementation. Equally, in States with small or few facilities where persons are detained, the implementation of the Optional Protocol to UNCAT is also relatively simple and low-cost.

Other States have shown that the costs associated with implementing UNCAT may be managed in a way which incorporates them into existing commitments on justice sector reform or bears them gradually over time, making full implementation of the Convention possible, even for small States.

States also note that reporting to multiple UN mechanisms, including the Committee against Torture, is burdensome for States with limited resources. However, States may overcome this challenge by seeking assistance from partners, including other States, OHCHR, UNDP, and civil society, who provide technical or financial assistance in order to facilitate the process of reporting to the Committee.

The State could also attempt to balance anticipated costs with likely benefits. For instance, in addition to effectively preventing torture and other ill-treatment in the jurisdiction, a number of tangible and non-tangible benefits are associated with UNCAT membership, such as sustainable development and improved security, thus becoming a more attractive investment and trading partner, which may significantly reduce the overall costs of ratification.

A number of partners, including CTI and OHCHR, also offer assistance to States on request. For instance, CTI has enabled exchanges between States which celebrate good practices in UNCAT implementation that may be replicated in a cost-effective way. Should the State also ratify the Optional Protocol, an OPCAT Special Fund has been established with the OHCHR to support States parties to implement specific recommendations of the treaty body.

WHAT ARE THE PRIORITIES ON UNCAT SIGNATURE OR RATIFICATION/ACCESSION?



Pursuant to the international law of treaties, a signing State does not undertake positive legal obligations under UNCAT upon its signature. However, the signature indicates the State's intention to take steps to express its consent to be bound by UNCAT at a later date. Signature also creates an obligation, in the period between signature and ratification, to refrain in good faith from acts that would defeat the object and purpose of UNCAT.

On ratification, the State formally consents to be bound by its obligations. The State must take steps to respect, protect, and fulfil the obligations of UNCAT in good faith, and to report to the Committee within one year on the steps it has taken.

One economic way to ensure coordination and effective implementation among various arms of State is to establish an inter-ministerial body to oversee implementation of UNCAT including the submission of reports. The body could establish sub-groups to speed up decision-making on particular issues as appropriate. For this purpose, a number of States have put in place a National Mechanism for Implementation, Reporting and Follow-up (NMRIF), to coordinate and streamline their engagement with the international human rights system (Treaty Bodies, UPR, etc.) from the reception of recommendations to their implementation and reporting to the relevant bodies. NMRIFs are established on a permanent basis to alleviate the extra-cost and burden of ad hoc arrangements, and to build long-lasting human rights expertise within Government.

Some of the most urgent first steps to be undertaken before or following UNCAT ratification include:

- 1 mapping (legal, institutional and capacity gaps, etc.),
- 2 planning for full implementation,
- 3 mainstreaming training for national actors in key sectors, and
- 4 preparing an Initial Report to the Committee against Torture.

Mapping for conformity

Various legal, administrative, judicial or other changes may be needed to effectively implement the Convention after ratification. While legal reform will not automatically ensure that all rights in the Convention are enjoyed by all persons, ensuring their protection in law is a critical step towards fulfilling them in practice.

The exercise of mapping the conformity of the national system should be conducted thoroughly so that States understand exactly what they must do in order to fully implement UNCAT. Such an exercise may be achieved in collaboration with CTI experts who understand how the Convention has been implemented elsewhere. See *'Checklist - Compiled list of elements for anti-torture legislation'* for more information. CTI offers support in the process of developing a legislative checklist for States with limited resources, particularly Small Island Developing States (SIDS) and Least Developed Countries (LDCs).

Many legislative amendments may be necessary to protect all the provisions of UNCAT in law, and could include revisions to one or more of the following legal texts:

- Constitution,
- penal code,
- criminal procedure code and civil code of procedure,
- police legislation,
- prison legislation,
- extradition legislation, and
- various other laws.

In relation to the important step of criminalisation, several States have benefitted from expert advice from international partners. Some States have passed amendments to their penal code, while others have adopted specific laws dedicated to criminalising the offence. No single method is suitable for all States, and each should undertake a process of reflection to agree on a process of legal reform which is consistent with the national legal order.

Developing a domestic roadmap

Beyond legal reform, further steps may be contemplated by each government department and/or executive agency to enable full implementation. Once again, sharing experiences with other States parties, intergovernmental institutions and civil society may be sought to better understand exactly what further steps are appropriate.

States should be realistic, practical and achievable in setting goals for the implementation of UNCAT obligations. Fulfilment of Convention rights is an ongoing process, and may take years to achieve.

A roadmap for domestic implementation of UNCAT might include the following steps for each responsible government department and/or executive agency:

- The adoption of regulations, codes of practice, or policies to guide operational practices and bring about positive behavioural change;
- Institutional reform is also recommended to allow for independent and effective investigations, robust chains of responsibility, or visits by experts who can work with national authorities to reduce the risks of abuse;
- Development of reparations programmes and rehabilitation services for victims of abuse;
- Capacity building and training are critical tools to change cultural barriers and educate judicial and operational officials; and
- Public awareness programmes on the rights enshrined in the Convention.

Mainstreaming training for key State actors

Raising awareness of UNCAT among all relevant actors from multiple government departments is a significant challenge to new States parties, but one which may be overcome with the assistance and support of States, institutional partners and other actors.

Staff in key sectors, such as police and corrections officers, judges and prosecutors, health professionals, and others should be introduced to the Convention and its obligations at an early opportunity, targeted to meet each of their specific needs. Training should be mainstreamed so that all new staff are given training in full compliance with international standards and existing staff are re-trained in areas of inconsistent practice.

Preparing an effective Initial Report

Pursuant to article 19 of the Convention, all States parties to UNCAT must submit reports periodically to the Committee against Torture (CAT), and the initial report is due within one year of ratification.

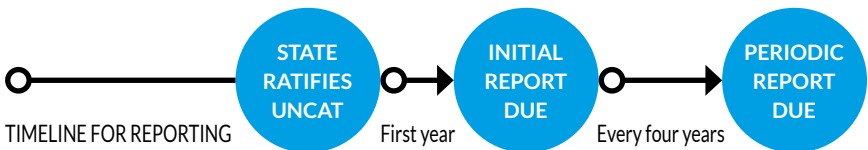
When a State party is reviewed by the CAT, the State must describe how it has implemented the obligations of the Convention and the Committee will make recommendations for further necessary reforms to enable better implementation.

The perceived burden of reporting is often cited as one of the reasons why States do not ratify UNCAT. Though the reporting process to the Committee against Torture does take time, it is an essential part of implementing the Convention. Reporting gives States an incentive to reflect on the steps taken to ensure national operation of the rights afforded by the Convention, and provides an opportunity to rally the diverse national actors and authorities around the required reforms. Furthermore, the cooperative dialogue with the Committee often provides specific and practical advice to enable more effective implementation.

The process of reporting has undergone some significant changes in the last few years to make the process more streamlined and less of a burden for States. Further changes are underway, and up to date information should always be sought from the CAT Secretariat (cat@ohchr.org) or on the CAT website (www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx).

After submission of the State report, the CAT will schedule an initial review with the State party as a priority. The national report will be examined in detail with the State delegation during an interactive dialogue with the CAT. The CAT will then adopt concluding observations and recommendations, some of which should be followed up with the State party within a year.

Timeline for preparation of Initial and Periodic Reports:



For more guidance on reporting and follow-up, see CTI's [UNCAT Implementation Tool: Reporting to the UN Committee against Torture](#).

HOW CAN CTI AND OTHER INTERNATIONAL PARTNERS ASSIST STATES WITH RATIFICATION AND IMPLEMENTATION?



The Convention against Torture Initiative (CTI) has been established to bring States together to share legal advice and technical assistance for the ratification and implementation of UNCAT and its Optional Protocol. There are a number of international partners, including CTI, UN bodies such as OHCHR and UNDP, and civil society organisations that can assist States with each stage of ratification and implementation. *For more information see the separate briefing on 'How the CTI Can Help'.*

Both before and after ratification, CTI can help prepare key stakeholders for implementation of the Convention, with trainings and materials to raise awareness of the Convention and its principal obligations. If relevant, international experts and civil society organisations may provide further technical assistance and legal advice.

ANNEXES



ANNEX 1: WHEN TO RATIFY UNCAT AND OPCAT?	17
ANNEX 2: RATIFICATION, ACCESSION, RESERVATIONS AND DECLARATIONS TO UNCAT	20
ANNEX 3: TEMPLATES FOR RATIFICATION, ACCESSION, RESERVATIONS AND DECLARATIONS TO UNCAT	30
ANNEX 4: INITIAL REPORTS TO THE COMMITTEE AGAINST TORTURE - GENERAL GUIDELINES	35
ANNEX 5: CHECKLIST - COMPILED LIST OF ELEMENTS FOR ANTI-TORTURE LEGISLATION.....	40
ANNEX 6: WORK OF THE COMMITTEE AGAINST TORTURE.....	45
ANNEX 7: DIFFERENCE BETWEEN ANTI-TORTURE MANDATE HOLDERS.....	48
ANNEX 8: ABOUT THE CTI.....	52
ANNEX 9: HOW THE CTI CAN HELP	54

ANNEX 1:

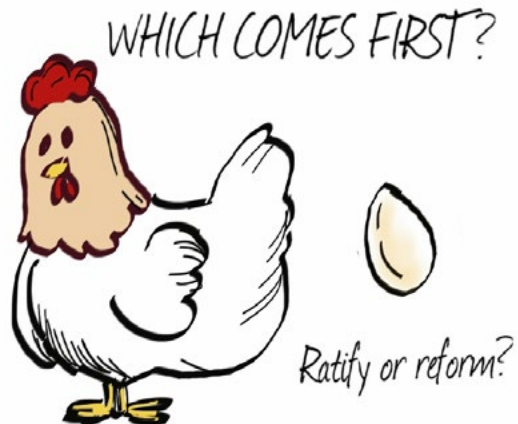
WHEN TO RATIFY UNCAT AND OPCAT?



There is no requirement to fully comply with the UN Convention against Torture or its Optional Protocol prior to ratification or accession. Nevertheless, in preparing for ratification/accession, States typically carry out a stocktaking of national laws, policies, institutions and procedures to see that they can demonstrate many, if not all, of their obligations.

“ There is a common misconception, in the Pacific region and elsewhere, that full compliance with treaty provisions is a pre-requisite for ratification. This is not true. In fact, no country in the world manages full compliance. There is always room for improvement. Ratification should signal the beginning of a process to amend national legislation so that it conforms to international human rights standards. States should not regard their current domestic human rights situation as a barrier to treaty ratification. Instead, ratification should be seen as an opportunity to effect change.”⁵

Participants in CTI seminars and workshops often ask experts whether States should ratify immediately, or wait until after they have overcome implementation challenges. CTI and other experts and partners, including members of the UN Committee against Torture, underline that the Convention does not expect States to be in full compliance with its provisions prior to ratification.



⁵ OHCHR Regional Office for the Pacific, Ratification of International Human Rights Treaties: Added value for the Pacific Region (OHCHR/PIFS, 2009).

During the process of periodic review with States parties, the Committee against Torture does not expect full compliance from States under review, but rather that a process is being undertaken towards satisfying those obligations. Indeed, it is often only after ratification, through cooperative dialogue with the Committee against Torture, that laws or policies may be identified as needing revisions. Ratification or accession is therefore just the start of a process of incremental implementation.

“ We must not forget that ratification is not the end of the process, but rather the beginning of an ongoing effort to implement the provisions of the Convention, and to harmonize national laws and practices with international norms, as they are defined in the Convention.”

Mr. Abdelwahab Hani, former member of the UN Committee against Torture (CAT)

States that wait to ratify or accede until certain steps have been taken risk missing key issues which could have been raised through early dialogue with the Committee against Torture. This process is a constructive dialogue, and OHCHR (or other UN agencies) and various international partners are better able to assist States with particular national challenges to implementation after the State has committed itself to the fulfilment of the treaty.

Chicken or egg: implementation before or after treaty adoption

Though UNCAT does not require fulfilment of its obligations prior to ratification or accession, some States prefer to take some concrete steps towards implementation before the adoption of legal obligations. For instance, New Zealand enacted its Crimes of Torture Act 1989 to coincide with its ratification of UNCAT, on 10 December 1989. New Zealand later amended the law in 2007, to coincide with its ratification of the Optional Protocol in March 2007. In this way, New Zealand was able to demonstrate respect for obligations of UNCAT on ratification, and move quickly to fulfil the requirement of establishing its National Preventive Mechanism within a few months of OPCAT ratification.

As an alternative model, Vanuatu acceded to UNCAT in August 2011, and was the first Pacific Island State party to the Convention. Thereafter, it undertook to fulfil the rights associated with its accession:

The Government of Vanuatu took a practical approach to accession of [the Convention], not requiring full compliance with the provisions of the [Convention] before its accession, rightly seeing accession as the first step in the process.⁶

The OHCHR has reported that membership of UNCAT provided Vanuatu with the framework through which their law enforcement bodies have been able to consider their internal practices, and initiate institutional reform in line with the Convention. This approach has become very common among the newer States parties.

When to ratify/accede to OPCAT?

OPCAT provides that a State may sign or ratify the Optional Protocol at the same time as, or at any time after, signing or ratifying UNCAT. As with UNCAT, States may begin to implement its core obligations at any time prior to ratification.

Conclusion

Ratification or accession of the UN Convention against Torture and its Optional Protocol may be completed by States before they have achieved obligations contained in its provisions. Membership of these treaties may be understood as the start of an incremental process towards the fulfilment of the absolute prohibition against torture, supported by an ongoing process of dialogue with treaty body experts.

States which ratify treaties may choose to sign UNCAT or OPCAT as a preliminary step towards full ratification, while consulting with national stakeholders. Other States may opt for a one-step process of accession.

Membership of all human rights treaties incurs legal obligations, and States should only ratify or accede when they fully understand the obligations and are ready to begin the process of implementation.

⁶ OHCHR, *Torture Prevention in the Pacific: Sharing Good Practices and Lessons Learnt* (OHCHR, Dec. 2011), p.6.

ANNEX 2:

RATIFICATION, ACCESSION, RESERVATIONS AND DECLARATIONS TO UNCAT



This explanatory material should be read in conjunction with the [UN Treaty Handbook](#), published by the Treaty Section of the Office of Legal Affairs.⁷

CTI and APT remain available to provide any further information or advice that may be required. Please contact the CTI Secretariat for further information, advicehub@cti2024.org.

Becoming a State party to UNCAT

There are two routes for a State to become party to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention, or UNCAT): A State may either (i) sign and ratify the treaty, or (ii) accede to it. Both are equally valid, and have the same legal effect. A legal unit in the ministry of foreign affairs would normally be consulted to determine whether it is customary to ratify or accede to international treaties.

1. SIGNATURE AND RATIFICATION

Ratification requires two separate actions. The State first signs the instrument, before formally depositing an instrument of ratification. UNCAT opened for signature on 10 December 1984, and remains open for signature by all States (see UNCAT article 25).

SIGNATURE. The procedure for signature is for the Head of State, Head of Government or Minister for Foreign Affairs, signing on behalf of the State, to meet the Treaty Section of the United Nations to physically sign the instrument, at UN Headquarters in New York. A State official other than the Head of State, Head of

⁷ <https://treaties.un.org/>

Government or Minister for Foreign Affairs may also sign a treaty if they are in possession of a valid instrument of full powers (a model instrument of full powers is included in this package).

By signing the Convention, a State indicates its intention to become a party to the instrument in the future.

Signing the Convention does not make the State a party to the agreement, legally bind it or require it to begin to implement all the provisions of the Convention. Signature does though create an obligation, in the period between signature and ratification, to refrain in good faith from acts that would defeat the object and purpose of the Convention.

RATIFICATION. To become formally bound by the Convention's provisions, a signatory State must subsequently ratify UNCAT (see UNCAT article 25). Ratification of UNCAT at the international level requires the State to deposit an instrument of ratification with the UN Secretary-General (see model instrument of ratification in this package) through the UN Treaty Section in New York.

2. ACCESSION

An alternative route available to States to agree to be bound by the Convention is through the single action of accession (see UNCAT article 26). To become party to the Convention, an acceding State must formally declare its consent to be bound by UNCAT with the deposit of an instrument of accession.

As with the procedure for ratification, accession may involve one or more of the steps described next. Accession is effected through the deposit of an instrument of accession with the UN Secretary-General (see model instrument of accession in this package) through the UN Treaty Section in New York.

Steps to ratification or accession

Step 1 *Action by the national government.*

At the national level, there may be specific procedures a State is required to undertake, prior to becoming party to an international agreement. For some countries, parliamentary authority is required to become party to international treaties; for others, only executive authority is needed. Irrespective of the domestic procedures, before a State formally agrees to become party to a treaty, it is generally recommended that State authorities discuss the obligations widely before ratification or accession, so that all the Convention's requirements are fully understood. There is no requirement that a State be fully in compliance with all UNCAT provisions prior to ratification or accession, although it is expected that appropriate steps would be taken to ensure conformity with the Convention over time.

Step 2 *Determine if any reservations or declarations are needed.*

As part of any relevant domestic process, the Government should determine whether any reservations or declarations need to be made with submission of the instrument of ratification or accession.

For example, a Government will need to submit a declaration at the time of ratification or accession to exercise the opt-out option for articles 20 and 30 of the Convention (see UNCAT articles 28 and 30(2) for authority for permitted declarations). Reservations and declarations are described more fully in the next section of this annex.

Step 3 *Prepare and sign instrument(s).*

Following the completion of any necessary domestic procedures, the Government office responsible for doing so will prepare the instrument of ratification or accession and any instruments of reservation or declaration.

In the practice of many countries, this responsibility belongs to the Ministry of Foreign Affairs. The Head of State, Head of Government or Minister for Foreign Affairs will then sign and date the instrument(s).

Step 4 *Delivery to the Secretary-General through the UN Treaty Section.*

After domestic procedures have been followed and the decision to be bound by the Convention taken, a State must formally deposit the instrument of ratification or accession. Ratification or accession to the Convention becomes effective only when it is deposited with the Secretary-General of the United Nations at United Nations Headquarters in New York. The date of deposit is normally recorded as that on which the instrument is received at Headquarters.

The instrument may be delivered by hand, mail or fax to the Treaty Section of the United Nations, preferably including translation into English or French, where appropriate. If the instrument is deposited by hand, it is not required that the person delivering the instrument has full powers. In accordance with depositary practice, if a State initially faxes or sends by email a signed copy of an instrument, such copy may be accepted for deposit but that State must also provide the original as soon as possible thereafter to the Treaty Section.

The contact information for the Treaty Section is as follows:

- Treaty Section
- Office of Legal Affairs
- United Nations
- New York, NY 10017
- USA

- Tel: 1-212 963 5047
- Fax: 1-212-963-3693
- Email: treatysection@un.org
- Website: <https://treaties.un.org/>
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ENTRY INTO FORCE

The Convention enters into force on the thirtieth day after the date of the deposit of the instrument of ratification or accession (see UNCAT article 27(2)).

Reservations and interpretative declarations

Reservations to treaties modify or exclude the legal effect of its provisions. As provided in the 1969 Vienna Convention on the Law of Treaties, where they are allowed, reservations must be specific and must not be incompatible with the object and purpose of the treaty.⁸

The Convention against Torture (UNCAT) does not exclude the possibility that States may make reservations at ratification or accession. Indeed, the Convention explicitly provides that reservations may be made to exclude certain provisions related to its inquiry procedures into well-founded allegations of systematic torture and associated visits described in article 20 (per article 28) and the resolution of disputes (article 30(1)).

Examples of reservations explicitly permitted:

China:

- “ (1) *The Chinese Government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention.*
- “ (2) *The Chinese Government does not consider itself bound by paragraph 1 of article 30 of the Convention.*”

France:

- “ *The Government of France declares in accordance with article 30, paragraph 2, of the Convention, that it shall not be bound by the provisions of paragraph 1 of [article 30].*”

In addition to explicitly permitted reservations, recent reservations to human rights treaties, including UNCAT, reveal a tendency for States to enter reservations which attempt to modify or exclude the legal effect of important treaty provisions. Such reservations could serve as stumbling blocks to the effective implementation of international standards, and States should think carefully about whether they are needed, and how soon they may be removed.

⁸ For more advice on the lawfulness of reservations to treaties, see the UN *Guide to Practice on Reservations to Treaties* (2011), adopted by the International Law Commission 63rd session.

On one hand, reservations allow States to participate in a treaty that they would otherwise be unable to join. On the other, reservations lead to asymmetrical relationships between States parties. One State may opt-out of a provision which is valid for others, thus undermining the universality of commitments shared among all States parties. Some reservations may even attempt to reduce the significance or impact of the treaty itself.

Examples of other types of reservations:

Lao People's Democratic Republic:

“ The Government of the Lao People's Democratic Republic declares that, pursuant to Article 8, paragraph 2 of the Convention it makes extradition conditional on the existence of a treaty. Therefore, it does not consider the Convention as the legal basis for extradition in respect of the offences set forth therein. It further declares that bilateral agreements will be the basis for extradition as between the Lao People's Democratic Republic and other States Parties in respect of any offences.”

New Zealand:

“ The Government of New Zealand reserves the right to award compensation to torture victims referred to in article 14 of the Convention Against Torture only at the discretion of the Attorney-General of New Zealand.”

Thailand:

“ With respect to the term 'torture' under Article 1 of the Convention, although there is neither a specific definition nor particular offence under the current Thai Penal Code corresponding to the term, there are comparable provisions under the aforesaid Thai Penal Code applicable to acts under Article 1 of the Convention. The term 'torture' under Article 1 of the Convention shall accordingly be interpreted in conformity with the current Thai Penal Code.

The Kingdom of Thailand shall revise its domestic law to be more consistent with Article 1 of the Convention at the earliest opportunity.”

Interpretative declarations

At the time of ratification/accession, some States have also decided to introduce interpretative declarations. An interpretative declaration is a clarification of the State's understanding or interpretation of a particular provision. Unlike reservations, interpretative declarations only clarify the State's position and do not exclude or modify the legal effect of a treaty.

Example of interpretative declaration:

Netherlands

“ It is the understanding of the Government of the Kingdom of the Netherlands that the term “lawful sanctions” in article 1, paragraph 1, must be understood as referring to those sanctions which are lawful not only under national law but also under international law.”

Reservations and interpretative declarations to UNCAT itself have been limited. At the time of writing, 51 States parties had entered reservations or interpretative declarations to UNCAT on ratification. However, several have since been withdrawn, leaving only 41 States' reservations or interpretative declarations operative. Many of the reservations describe areas explicitly permitted in UNCAT, but a few are legally problematic and have attracted a high number of formal objections from other States parties.

The International Law Commission encourages States to conduct a periodic review of reservations, to consider whether they continue to serve their purpose, and withdraw the reservation when they are no longer needed. Such a review should take into account the importance of preserving the integrity of the treaty, the usefulness of the reservation, and any developments in international law. The Committee against Torture also routinely recommends the removal of reservations during its interactive dialogues with States parties.

Optional Declarations

Art.21 and Art.22 Declarations

UNCAT allows, under article 21 and article 22, optional declarations that may be made upon or at any time after ratification or accession to the Convention. Such declarations provide the Committee against Torture with the competence to hear ‘communications’, or complaints from States parties and individuals, alleging violations of the Convention.

Both articles describe voluntary procedures. States may choose whether or not to accept either procedure. Where a State does not make the voluntary declaration, the Committee will have no jurisdiction to hear complaints.

Around a third of all States parties have made declarations under both articles 21 and 22, and therefore accept the competence of the CAT to consider complaints from States parties and individuals.⁹

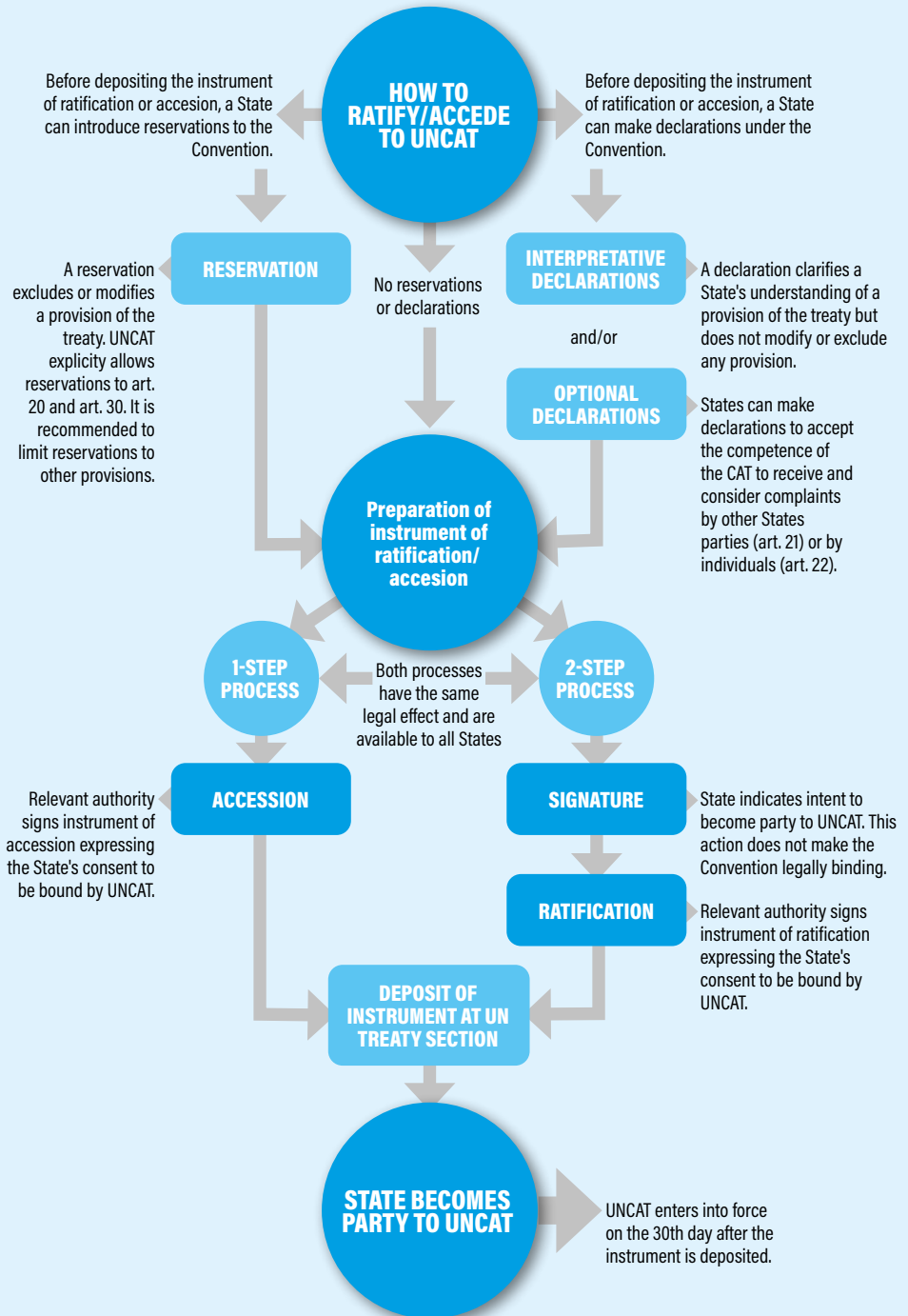
The quasi-judicial function of the CAT is not an appeal procedure. The Committee only has the competence to determine whether there was a violation of the Convention and make recommendations for how such a violation may be redressed. The procedure therefore serves as a helpful opportunity to consider whether national implementation of the Convention is in full compliance with international law, and recommends States parties to take remedial steps where necessary.

⁹ On the date of this publication, 58 States have made declarations provided for in both articles 21 and 22 of the Convention (62 States parties made the declaration under article 21; 68 made the declaration under article 22). The current status of reservations and declarations made by States parties to UNCAT may be seen on the UN Treaty Collection website, at www.treaties.un.org.

Example of articles 21 & 22 declarations:

Algeria

- “ The Algerian Government declares, pursuant to article 21 of the Convention, that it recognizes the competence of the Committee Against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention.
- “ The Algerian Government declares, pursuant to article 22 of the Convention, that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.”



ANNEX 3:

TEMPLATES FOR RATIFICATION, ACCESSION, RESERVATIONS AND DECLARATIONS TO UNCAT



MODEL INSTRUMENT OF FULL POWERS (for signature)

INSTRUMENT OF FULL POWERS

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY AUTHORIZE [name and title] to sign the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984, on behalf of the Government of [name of State].

Done at [place] on [date].

[Signature by Head of State,
Head of Government, or
Minister for Foreign Affairs]

MODEL INSTRUMENT OF RATIFICATION

INSTRUMENT OF RATIFICATION

WHEREAS the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) was adopted at New York, on 10 December 1984,

AND WHEREAS the said convention has been signed on behalf of the Government of [name of State] on [date],

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned convention, ratifies the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of ratification at [place] on [date].

[Signature by the Head of
State, Head of Government or
Minister for Foreign Affairs]

MODEL INSTRUMENT OF ACCESSION

INSTRUMENT OF ACCESSION

WHEREAS the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention) was adopted at New York, on 10 December 1984,

NOW THEREFORE I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs] declare that the Government of [name of State], having considered the above-mentioned convention, accedes to the same and undertakes faithfully to perform and carry out the stipulations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of accession at [place] on [date].

[Signature by the Head of
State, Head of Government or
Minister for Foreign Affairs]

MODEL INSTRUMENT OF RESERVATION/DECLARATION
MADE AT TIME OF RATIFICATION OR ACCESSION

INSTRUMENT OF RESERVATION/DECLARATION

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY DECLARE that the Government of [name of State] makes the following [reservation / declaration] in relation to article(s) [---] of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at New York, on 10 December 1984:

[Substance of reservation / declaration]

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Done at [place] on [date].

[Signature by the Head of
State, Head of Government or
Minister for Foreign Affairs]

MODEL INSTRUMENT OF DECLARATION ACCEPTING PROCEDURES DESCRIBED IN ARTICLES 21 AND 22

INSTRUMENT OF DECLARATION

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY DECLARE that the Government of [name of State] makes the following declaration(s) in relation to article(s) [21 and 22] of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted at New York, on 10 December 1984:

[In accordance with article 21, paragraph 1, of the Convention, [name of State] declares that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Convention.]

[In accordance with article 22, paragraph 1, of the Convention, [name of State] declares that it recognizes the competence of the Committee against Torture to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention.]

IN WITNESS WHEREOF, I have hereunto set my hand and seal.

Done at [place] on [date].

[Signature by the Head of
State, Head of Government or
Minister for Foreign Affairs]

ANNEX 4:

INITIAL REPORTS TO THE COMMITTEE AGAINST TORTURE – GENERAL GUIDELINES



Article 19 of UNCAT provides that all States parties shall prepare an initial report “on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State party concerned.”

Following its submission, the initial report of the State party will be considered by the Committee against Torture as a priority at one of its following sessions, and a delegation from the State party will be invited to participate and respond to questions from the Committee.¹⁰

To provide States parties with further advice on what should be included in their initial reports, the Committee has prepared a detailed guidance note.¹¹ These supplementary *General Guidelines* offer replies to common questions raised by States which have yet to submit an initial report, and directs States parties to further resources as well as commended examples of initial reports so that States may better prepare, organise and prioritise the large amount of information which might be shared with the Committee during the initial review.

The CTI has also developed a tool on reporting, to help guide States through the process and to share the experiences of other States. See, *CTI's UNCAT Implementation Tool: Reporting to the UN Committee against Torture*.

¹⁰ OHCHR with assistance of UN Country teams with access to video conferencing facilities have been requested to offer, at the request of a State party, the opportunity for members of its delegation to participate in the review of that State party by videoconferencing in order to facilitate wider participation in the dialogue. See UN General Assembly resolution A/Res/68/268, 21 April 2014, at 23.

¹¹ 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.

Why report?

Reporting to the Committee against Torture (the Committee, or CAT) is a constructive process of dialogue. Through this dialogue the Committee acknowledges positive action to implement the Convention and offers informed advice on areas where further reforms are recommended. The dialogue and any resulting recommendations can support efforts by States to review, adjust or confirm their national laws, policies and practices, or to develop or update national anti-torture strategies and action plans.

The reporting process also gives an opportunity to the State to put its own views on the public record about its practices and procedures to prevent torture and other ill-treatment and to provide redress to victims.

For the reporting process to have the most practical benefit for States it is best approached as an ongoing process of implementation, reporting and follow-up, including as an opportunity to consult and engage with relevant national stakeholders.

Important changes in the requirements for initial reports

As the practice of the CAT has evolved, the level of detail and the format of initial reports submitted has changed. Additionally, as a result of the recent efforts by the UN to enhance the efficiency of treaty body operations, new reporting requirements have been agreed. Consequently, any initial report which follows the format used in early sessions of the Committee against Torture (or other human rights treaty body) is unlikely to be adequate for the Committee to conduct a thorough review, and up to date information should always be sought from the CAT Secretariat (+41 22 917 97 06, cat@ohchr.org) or from the CAT website (www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx).

The changes to initial reports have been caused by at least two historic factors. First, the introduction of the 'common core document' (a requirement of human rights treaty reporting since 2006)¹² and, second, the 2005 revisions to the guidelines on the form and content of initial reports.¹³ Both factors have made

¹² See HRI/GEN/2/Rev.6, 3 June 2009.

¹³ 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.

early examples of initial reporting less relevant for any State Party seeking to submit a report to the CAT.

More recent efforts by the UN General Assembly to make treaty body reviews more efficient has led to the establishment of word limits for all State party documentation. The **word limit for initial reports is 31,800 words**, 21,200 for subsequent periodic reports and common core documents should not exceed 42,400 words.¹⁴

It should be noted that where States Parties submit initial reports which are manifestly inadequate, treaty bodies frequently ask the State to provide additional information or even return during the following session with an additional report and go through the process again. Equally, reports which exceed the set word limits are sent back to the State with a request to re-submit a new version complying with the word limit.

As a result of these changes in content and procedure, States Parties should use good practice examples of initial reports from States parties after the date when the changes in treaty body reporting were adopted, to guide their preparation of an initial report to the Committee.

Good practice examples

CTI's [UNCAT Implementation Tool: Reporting to the UN Committee against Torture](#) captures a number of good examples.

For the initial report, areas of particular interest to the Committee include the current legislative and institutional frameworks relevant to the prevention of torture and ill-treatment or punishment, any practical measures in place, as well as plans for how the State intends to implement UNCAT. Specific examples and



¹⁴ UN General Assembly Resolution A/Res/68/268, Strengthening and enhancing the effective functioning of the human rights treaty body system, 21 April 2014, at 16.

statistics are useful to illustrate the implementation of UNCAT at the domestic level.

When preparing initial reports States may find that they can re-use information included in their reports under the Universal Periodic Review (UPR) or to other treaty bodies when such information is directly relevant for UNCAT.

It can also be helpful for the State party to indicate to the Committee any areas of priority for future reforms, and the timeframes envisaged.

What if the initial report is late?

While best practice requires that States parties submit their initial report within one year of ratification, the reality is that few States have been able to submit their reports on time. There are many reasons States parties' reports are delayed, from a shortage of resources or lack of capacity, to natural disaster or armed conflict.

States should always endeavour in good faith to submit their initial report within one year. However, if this is not possible, States should engage with the Committee Secretariat as a priority and agree a date soon thereafter when the submission of the initial report will be possible. The CAT has in recent years started to review States parties in the absence of a report. States should also be aware that technical assistance and advice on reporting to treaty bodies is available from OHCHR, other UN bodies, CTI and civil society organisations. *See the separate briefing on 'How the CTI Can Help' for more information.* From Concluding Observations of the Committee against Torture (CAT) issued following reviews of various States parties' initial reports, several priorities emerge.

In initial reports, States parties should:

- 1 Comply with the Committee's general guidelines on the form and content of initial reports¹⁵ (and the new procedural requirements on word limits),
- 2 Add a common core document, as an essential complementary element of treaty body reporting,¹⁶
- 3 Provide specific examples and statistics of how the Convention is implemented by the State party in practice,¹⁷
- 4 Be frank and acknowledge the State party's shortcomings in the implementation of the Convention,¹⁸
- 5 Report on the entire period under review,¹⁹
- 6 Submit the initial report within a year after ratification, and
- 7 Encourage civil society to participate in the preparation of the report.²⁰

¹⁵ Compare the Concluding Observations for Iraq (CAT/C/IRQ/CO/1, 14 August 2015): "... The Committee welcomes the submission of the initial report of Iraq and the information contained therein. It regrets, however, that the report does not follow generally the Committee's Guidelines on the form and content of initial reports..."; with the Concluding Observations for Burundi (CAT/C/BDI/CO/1, 15 February 2007): "The Committee welcomes the submission of the initial report of Burundi, which is in conformity with the Committee's guidelines for the preparation of initial reports..."

¹⁶ Concluding Observations for Qatar (CAT/C/QAT/CO/1, 25 July 2006), §2.

¹⁷ See Concluding Observations for the Congo (CAT/C/COG/CO/1, 28 May 2015): "[the CAT] regrets that the report does not contain statistical data and concrete examples relating to the implementation of the Convention". Or Mongolia (CAT/C/MNG/CO/1, 20 January 2011): "while generally following the Committee's guidelines for reporting, [the report] lacks statistical and practical information on the implementation of the provisions of the Convention." OHCHR have published a guide to the measurement and implementation of human rights, with illustrative indicators which might assist States in their collection of relevant data. See OHCHR, Human Rights Indicators (Geneva, 2012), available online at <http://www.ohchr.org>. See, in particular, illustrative indicators on p.91 (Table 4).

¹⁸ The Committee always appreciates efforts by the State party to present its shortcomings honestly. In the Concluding Observations for Burundi (CAT/C/BDI/CO/1, 15 February 2007), "[t]he Committee notes with satisfaction the frankness with which the State party acknowledges the gaps in its legislation relating to the elimination and prevention of torture. It also appreciates the effort made by the State party to identify the corrective steps needed." See also Concluding Observations for Guyana (CAT/C/GUY/CO/1, 7 December 2006, §2), Kenya (CAT/C/KEN/CO/1, 19 January 2009, §2), and Chad (CAT/C/TCD/CO/1, 4 June 2009, §2).

¹⁹ See Concluding Observations for Tajikistan (CAT/C/TJK/CO/1, 7 December 2006), §2.

²⁰ See Concluding Observations for Mongolia (CAT/C/MNG/CO/1, 20 January 2011), §2.

ANNEX 5:

CHECKLIST – COMPILED LIST OF ELEMENTS FOR ANTI-TORTURE LEGISLATION



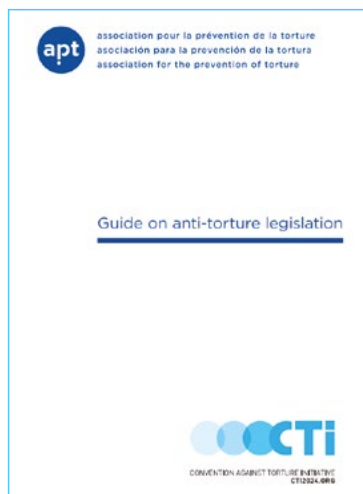
Upon ratifying or acceding to the UN Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), States generally undertake to review their national legislative frameworks, and may need to amend existing laws or adopt new laws to give effect to the full range of obligations in the Convention.

This checklist is a compiled list of elements on legislative reforms, with the purpose of assisting States to identify existing UNCAT-compliant provisions, as well as areas where gaps may exist.

The checklist is as follows:

- **Primary elements:** where the Convention explicitly requires States parties to legislate;
- **Recommended elements:** where the UN Committee against Torture recommends States parties legislate to implement the Convention;
- **Optional elements:** where the UN Committee against Torture encourages States to consider legislating in a particular area, though there is no obligation to do so.

It is drawn from the APT-CTI [Guide on anti-torture legislation](#), where the original checklist is included in the Annex with full explanations provided in the text. It has been updated to include a new section on relevant questions regarding legislation in the context of detention/deprivation of liberty.



Definition and criminalisation of torture	
Primary elements	Tracker
A separate and specific crime of torture in national legislation is to be adopted.	
The definition of torture in national law is to encompass, at a minimum, the elements contained in the article 1 definition: torture is any act by which severe mental or physical pain or suffering is intentionally inflicted for a particular purpose by a public official or with his or her consent or acquiescence or by anyone acting in an official capacity.	
National legislation is to contain provisions affirming the absolute nature of the prohibition of torture; the defence of superior order is to be excluded.	
The penalty for the crime of torture is to take account of the grave nature of the crime.	
Recommended elements	Tracker
In order for the penalty for the crime of torture to be commensurate with the gravity of the crime, a minimum penalty of six years should be imposed.	
Optional elements	Tracker
National legislation includes acts of non-state and private actors in the definition of torture.	
National legislation criminalises cruel, inhuman or degrading treatment or punishment.	
Modes of liability	
Primary elements	Tracker
National legislation criminalising torture is to include explicit criminal liability for:	
• the commission of torture;	
• attempt to commit torture;	
• complicity in torture;	
• instigation of torture;	
• incitement to torture;	

<ul style="list-style-type: none"> the commission of acts of torture by public officials who acquiesce or consent to torture; 	
<ul style="list-style-type: none"> other forms of participation. 	
Jurisdiction	
Primary elements	Tracker
In establishing jurisdiction, legislative provisions are to include all bases of jurisdiction in article 5 of the Convention, namely:	
<ul style="list-style-type: none"> Jurisdiction over alleged cases of torture in any territory under a State's jurisdiction 	
<ul style="list-style-type: none"> Jurisdiction for cases committed by a State's national; 	
<ul style="list-style-type: none"> Universal jurisdiction over any alleged offender present in the territory under a State's jurisdiction. 	
Recommended elements	Tracker
National legislation provides for jurisdiction over cases where a State's national has been a victim of torture.	
Complaints, investigations, prosecutions and extradition	
Primary elements	Tracker
National legislation is to include:	
<ul style="list-style-type: none"> Provisions ensuring that individuals can exercise their right to complain to an independent body and to be protected against reprisals; 	
<ul style="list-style-type: none"> Prompt and impartial investigations of all allegations of torture are available and undertaken; 	
<ul style="list-style-type: none"> Provisions to prosecute alleged perpetrators of torture, or extradite them, subject to the prohibition on refoulement; 	
<ul style="list-style-type: none"> Provisions on the extradition of alleged torturers, subject to the prohibition on refoulement; 	
<ul style="list-style-type: none"> Provisions on mutual judicial assistance in criminal proceedings related to torture are to be included. 	

Amnesties, immunity, statute of limitations and other impediments	
Primary elements	Tracker
National legislation on amnesties and immunities is to preclude torture.	
National legislation is not to extend statute of limitations to the crime of torture.	
Other impediments to prosecution and punishment are not permitted for cases of torture.	
Redress	
Primary elements	Tracker
The right to redress for victims of torture is to be included in national legislation.	
National legislation on the right to redress also applies to victims of CIDTP.	
Forms of reparation in national legislation are to encompass restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.	
The term victim is to encompass not only the immediate victim, but also his or her family and dependants and anyone who suffered harm while assisting the immediate victim. All those victims have a right to redress to be recognised in national legislation.	
Recommended elements	Tracker
Legislative provisions enable victims of torture to obtain civil reparation without the prior conclusion of criminal proceedings.	
Exclusionary rule	
Primary elements	Tracker
National legislation is to exclude explicitly evidence obtained by torture in all proceedings.	
National legislation is to reflect that the burden of proof is on the prosecution to show that evidence was collected lawfully, where there is an allegation that evidence was obtained by torture;	
National legislation is to reflect that the exclusionary rule applies to evidence obtained by CIDTP.	
National legislation is to reflect that the exclusionary rule applies to all forms of evidence.	

Non-refoulement	
Primary elements	Tracker
The principle of non-refoulement is to be reflected in national legislation.	
Recommended elements	Tracker
National legislation is to reflect that the principle of non-refoulement applies to risks of CIDTP.	
<i>New! Legislation and/or regulations in the context of detention/deprivation of liberty</i>	
Recommended elements	Tracker
Constitutional and/or legislative provisions guaranteeing basic rights of persons arrested and/or deprived of their liberty.	
Optional elements	Tracker
Laws and/or regulations covering matters such as ²¹ :	
<ul style="list-style-type: none"> • Prohibition of torture and ill-treatment; 	
<ul style="list-style-type: none"> • Prohibition of corporal punishment; 	
<ul style="list-style-type: none"> • Prohibition of excessive force in the context of arrest and detention; 	
<ul style="list-style-type: none"> • Material conditions of detention and treatment of persons deprived of their liberty in line with international standards; 	
<ul style="list-style-type: none"> • Living conditions and treatment of persons placed in psychiatric, psychoneurological and other social care or residential institutions (for example, by regulating means of restraint; contact with the outside world; drug administration; and external supervision). 	

²¹ The referred matters may be found, among others, in Police Acts, Prison/Correctional Services Act, Armed Forces Acts, Health Acts, Mental Health Acts, or laws relating to immigration/border control.

ANNEX 6 :

WORK OF THE COMMITTEE AGAINST TORTURE



The Committee against Torture

The Committee against Torture (CAT, or Committee) is the international body which monitors the implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) by its States parties.²²

The Committee is made up of 10 independent experts elected by States parties to UNCAT, drawn from a wide range of expertise, regions and professional backgrounds. The CAT is assisted by a professional secretariat based in the United Nations Office of the High Commissioner for Human Rights (OHCHR) in Geneva. UNCAT ratification gives States parties the opportunity to nominate experts to sit as elected members on the UN Committee against Torture. New States parties to UNCAT may therefore nominate experts for any election following ratification of the Convention. Elections of CAT members take place every two years, at meetings of States parties in Geneva. States parties have the opportunity to choose five members for the CAT during each election.

The role of Committee members

The CAT has several responsibilities, as described in UNCAT articles 19-22. The Committee must review the implementation of the Convention by each State party through reports submitted to it and during meetings with national delegations (UNCAT article 19); conduct confidential inquiries in cooperation with the State party when circumstances indicate the possibility of systematic torture being practised (article 20); and consider communications (or complaints) from States parties and from individuals, in States parties which have accepted the procedure (articles 21 and 22).

²² See <https://www.ohchr.org/en/hrbodies/cat/pages/catindex.aspx>

The Committee meets in three sessions each year (11 weeks in total) in Geneva, Switzerland. Sessions are usually held in May, August and November. Many of these meetings are open to the public, and are webcast on the UN Web TV (<http://webtv.un.org/>).

In addition to their work in Geneva, CAT members may be asked to conduct a visit to a State as part of a confidential inquiry, and may also be asked to participate in related UN meetings on a range of subjects. As recognised international experts, CAT members may also receive a number of invitations to participate in related events from State representatives and civil society. All members appear at such events in their personal capacity.

Guiding principles of CAT membership

Though members are nominated and elected by States parties, each member is independent from their State, and shall neither seek nor accept instructions from anyone concerning the performance of their duties.

Members are expected to maintain the highest standards of impartiality and integrity in the exercise of their responsibilities, and apply the standards of the Convention equally to all States and all individuals, without fear or favour and without discrimination of any kind.

Following standard UN rules and procedures, CAT experts do not work on their respective country (or any country where he or she may be seen to have a conflict of interest). Therefore, CAT members do not take part in the State party review, inquiries or communications related to their own country.

Skills and expertise of CAT members

UNCAT describes the qualities sought from Committee experts. Committee members should:

- Be persons of high moral standing; and
- Have recognised competence in the field of human rights.

No further requirements are described for CAT membership. However, for the particular nature of the role it is also recommended that CAT members also demonstrate:

- Expertise and commitment in the prohibition of torture and other forms of ill-treatment;
- Practical experience working with a range of stakeholders, including high level national authorities, persons deprived of their liberty, potentially vulnerable or marginalised groups, and civil society;
- Drafting and analytical skills for research, report writing and editing; and
- Excellent proficiency in at least one UN language (Arabic, Chinese, English, French, Russian and Spanish).

Practical aspects of CAT membership

CAT members are elected for four years, and are eligible for re-election if renominated. This has happened on a number of occasions in the CAT as well as in various other human rights treaty bodies. Whilst there are some obvious advantages to maintaining experienced experts on the CAT, there are equally advantages of incorporating new and varied expertise in the Committee.

Similar to other UN experts, CAT members are not paid to perform their functions. However, their travel costs are paid by the UN and they receive a UN daily subsistence allowance (to cover hotels, etc.) for their participation in the CAT sessions and related meetings.

CAT members do not have a diplomatic or international civil servant status. However, they do enjoy the necessary privileges and immunities of UN experts during the exercise of their functions, in particular on official missions.

Proposing a candidate for CAT membership

Prior to an election for membership to the CAT, any States parties may nominate for election one of their own nationals for membership. States parties should send the nomination and biographical data by note of their Permanent Mission, to the Office of the High Commissioner for Human Rights (registry@ohchr.org, copied to cat@ohchr.org), and drafted in accordance with the OHCHR model.

The nomination should be submitted several months before the election of the CAT members, to enable the OHCHR to circulate information on candidates to all States parties prior to the elections. The deadline for nominations is published on the webpage of the CAT.

The Committee against Torture (CAT) is a body of 10 independent experts that monitors implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) by its States parties.²⁴

The CAT considers reports by each State party and addresses its concerns and recommendations to the State party in the form of “concluding observations”. In addition, the Committee may also, under certain circumstances, consider individual complaints or communications from individuals or States, and undertake confidential inquiries. Such inquiries are rare, but may be undertaken when the CAT receives reliable allegations that torture is being systematically practised in a State party and may include, with the agreement of the State party, a visit to its territory. Visits by the Committee are characterised by their confidential character and the pursuit of cooperation with the State party concerned.

The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) is the UN body established by the Optional Protocol to the UN Convention against Torture (OPCAT), composed of 25 independent and impartial experts coming from different backgrounds and from various regions of the world.²⁵ The SPT is unlike other treaty bodies. It has a purely preventive mandate aimed at the achievement of a sustained, proactive approach to the prevention of torture and other ill-treatment.

The work of the SPT may therefore be distinguished from the work of the CAT. The SPT is proactive, maintaining a continuous dialogue with the State to offer forward-looking recommendations aimed at preventing violations from happening. While the CAT does have a preventive mandate, its work also looks at reacting to allegations, promoting effective investigations, and ensuring accountability for previous violations.

The SPT conducts visits to any place where people are or may be deprived of their liberty in any State party to the OPCAT and makes confidential recommendations to authorities to better prevent torture and other forms of ill-treatment. Although these reports are confidential, States are encouraged to make their reports public. The SPT also provides advice to States on the establishment and functioning of National Preventive Mechanisms (below).

²⁴ See <http://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx>

²⁵ See <http://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx>

The OPCAT also establishes a system of regular visits to places of detention conducted by **National Preventive Mechanisms (NPMs)**. NPMs are established by each State party to the OPCAT in response to the particular national context. Like the SPT, NPMs conduct visits to places of deprivation of liberty, collect information and make recommendations to implement solutions which improve the conditions of persons deprived of liberty, in a cooperative dialogue with the State authority.

A number of regional anti-torture mechanisms have also been established. **The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)** was established pursuant to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.²⁶

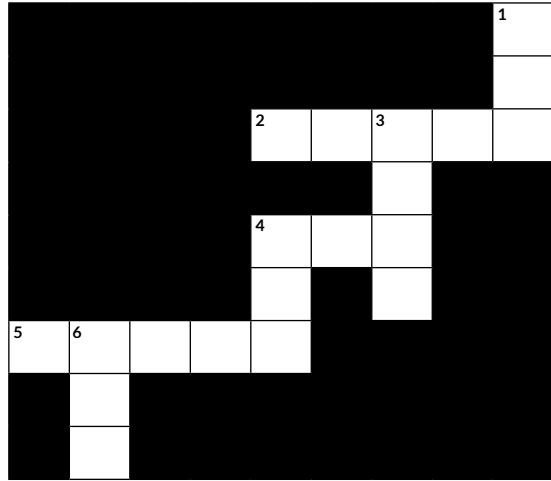
In a similar way to the SPT, the CPT organises visits to places of detention, in order to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned, including its findings and its recommendations. Principles of co-operation and confidentiality are also embodied in the working practices of the CPT. The Committee works in close cooperation with the national authorities and its reports and the governments' responses are confidential until such time that the State chooses to make the report public.

A Committee for the Prevention of Torture in Africa (CPTA) was established by the African Commission on Human and Peoples' Rights to offer assistance and advice to African States in the implementation of the African Union's Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines or RIG).

²⁶ See <http://www.cpt.coe.int/en/>

Quiz

- 1 Treaty body acting as guardian over its Convention; May conduct a confidential visit to a party of the Convention where there is evidence of systematic practice of abuse, with the consent of the State party.



- 2 Operational human rights treaty requiring the establishment of a national mechanism for monitoring all places where persons may be deprived of their liberty.
- 3 Regional mechanism tasked with designing and proposing to the African Commission strategies to promote and implement the Robben Island Guidelines at national and regional level.
- 4 (across) Treaty body expressly mandated to conduct visits to all places where persons are deprived of liberty in any State party; Provides confidential reports to States aimed towards the effective prevention of torture and other ill-treatment.
- 4 (down) Mandated by the UN Human Right Council; can conduct visits to any Member State of the UN, but may be granted access only after an invitation has been offered by the State.
- 5 Human Rights treaty which supplements the customary international law prohibition against torture with provisions on prevention, accountability and redress for acts of torture and other forms of ill-treatment.
- 6 National mechanism established under its treaty to conduct visits to places where persons may be detained and offer recommendations for the prevention of torture and other forms of ill-treatment.

ANNEX 8:

ABOUT THE CTI



Created in 2014, the Convention against Torture Initiative (CTI) is a ten-year global initiative of the Governments of Chile, Denmark, Fiji, Ghana, Indonesia and Morocco (Core States), to support and facilitate universal ratification and implementation of the UN Convention against Torture (UNCAT) by 2024.

Our vision

We want, once and for all, to remove torture from the toolkit of terror and oppression and to put an end to the profound traumas and societal wounds caused by this violent practice.

Objectives

The CTI aspires to strengthen institutions, policies and practices for dignified and rule-based governance and to reduce and prevent the risks of torture and ill-treatment through

- dialogue and exchange,
- technical assistance, capacity-building support and institution-strengthening,
- sharing evidence-based recommendations, expert advice and best practices,
- developing, compiling and translating practical examples, experiences, tools, resources and other materials,
- convening seminars, conferences and workshops,
- hosting a platform for information and knowledge dissemination and awareness raising.

Operating principles

The work of the CTI is guided by three fundamental principles:

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

Twinning. CTI is an initiative by and for Governments, based on mutual respect and equality, seeking to enhance the exchange of experiences and knowledge – typically in regional settings.

Inspirational. CTI inspires, it does not prescribe. CTI hopes to inspire countries by exposing them to the experiences of other countries, and through learning from those experiences.

Organisation

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

The **CTI Secretariat** provides policy and strategic advice to the CTI Core States, friends and partners, and delivers an ambitious, tailored annual programme of activities providing capacity building, know-how and technical assistance to States and other stakeholders.

The CTI’s work is encouraged and bolstered through a **Group of Friends**, a network based on cooperation, allowing for the exchange of knowledge, experience and ideas regarding how best to overcome obstacles to full implementation of UNCAT. All UN Member States and relevant NGOs, experts and academia are invited to join the CTI’s Group of Friends.

The CTI’s website, www.cti2024.org, provides an important repository of tools and information on CTI activities.

The **Association for the Prevention of Torture (APT)** is a strategic partner of the CTI, collaborating and advising the CTI on many of its activities.

ANNEX 9:

HOW THE CTI CAN HELP



There are a number of ways that the CTI can assist States. This includes States that are considering ratification and those that have already ratified but want help to implement the Convention more effectively.

Regional meetings As a cross-regional initiative, CTI sees the advantages of regional and sub-regional exchanges between States that share legal traditions, practical similarities and friendship. Annually the CTI works with national counterparts to arrange a number of peer-to-peer government dialogues on themes of relevance to States in a region. These confidential meetings offer a unique opportunity for States to share experiences on the challenges and opportunities provided by ratification and implementation of the Convention with a view to building strong relationships between States at regional level.

Study visits The CTI can arrange “study visits” to Geneva for delegations from non-States-parties to the Convention who have shown an interest in learning more about what it means to be a State party. The visits generally consist of expert briefings on the Convention, meetings with high level UN and other Government officials, including the UN Committee against Torture, to explain and share views, and there are opportunities to observe a session of the Committee against Torture in their review of a State party report and the State party’s replies.

Country diplomatic and/or technical visits: CTI carries out a number of high-level diplomatic and/or technical delegation visits each year to States to provide assistance on a range of issues relating to ratification and implementation of the Convention. A seminar with national stakeholders may be included in such a visit. Visits are tailored to the needs and wishes of the individual Government, and are not used to lobby or pressure. The CTI will work in close partnership with the State in question to meet its exact needs.

High-level UN and regional events The CTI holds regular meetings at the UN Human Rights Council in Geneva and the UN General Assembly in New York, and also at regional fora. Through these meetings, the CTI brings together States and torture prevention experts to discuss progress and opportunities for increased ratification and better implementation of the Convention.

Tools and Guides – The CTI works with expert partners to prepare tools intended to assist officials to understand and implement the Convention more effectively. These tools are practical and share good State practices. Non-English language versions are also available.

The **CTI Secretariat** is also available to support States through:

- A **remote Advice Hub**, responding to technical queries relating to ratification or implementation of the Convention: advicehub@cti2024.org;
- A **referral service**, connecting State requests for technical advice and support with appropriate partners and friends if the CTI is not best placed to support or advise;
- **Partnering** with a diverse range of partners and experts – CTI will keep up dated with the latest knowledge, analysis and expertise relevant to the prohibition and prevention of torture and ill-treatment.

If you would like to learn more about any of the above, please contact us at: advicehub@cti2024.org



UNCAT Ratification Toolkit

This toolkit compiles information on the procedures and matters to consider before and upon UNCAT ratification/accession. It is intended for State officials to be fully aware of why, when and how to sign, ratify or accede to UNCAT, and includes several annexes offering complementary materials answering to the most common questions raised by States.



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