

Report on the 'One Day Consultation to facilitate the Officials of the Government of Pakistan on the First Reporting to the United Nations of the UN Convention Against Torture (UN CAT) After the Ratification

23rd June, 2011
Marriott Hotel, Islamabad

**Organized by SACH-Struggle for Change Supported by
International Rehabilitation Council for Torture Victims (IRCT)**



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Page | 2

The Government of Pakistan signed the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (UNCAT or Convention) on 17th April 2008. It took two years and two months before the Government finally ratified the Convention on 23rd June 2010. The Convention becomes a legally binding human rights instrument. CAT is often considered as a bill of rights for victims of torture. It consists of a preamble and 32 articles, defines what constitutes discrimination against victims of torture and sets up an agenda for national action to end such discrimination.

SACH played a pivotal role and contributed to the above outcome notably in initiating the process of sensitizing the different organs of the Government of Pakistan on the UN Convention against Torture (UNCAT) during several years. This effort was supported by intense lobbying by SACH, which contributed to the efforts towards the signature of the Convention. SACH continued its efforts in support of the ratification and the GOP ratified it. The signature and ratification have been an achievement for SACH in its commitment and support to torture victims and its efforts towards eliminating all forms of torture in Pakistan. SACH has provided a consistent facilitation and support to the government regarding the signature, ratification and now the implementation and reporting of CAT. This landmark effort of SACH is being recognized both in Pakistan by the Government as well as globally.

UNCAT as all core human rights instruments are bound by a reporting procedure. Under this procedure, as a Party to the Convention, the Government of Pakistan is bound by the obligation to submit an initial periodic report on the implementation of the Convention to a specific Committee to UNCAT, a year after the ratification. The Committee meets in Geneva and normally holds two sessions in April/May and another four

weeks session in November. The periodic report would indicate the effect of the provisions of the treaty. The present period is a crucial one prior to the submission of the first report by the Government of Pakistan.

SACH has again made a timely strategic intervention in the process by bringing diverse stakeholders on a common platform to debate, dialogue and frankly discuss the CAT reporting, implementation and monitoring process. The participation ranged from technical experts, policy makers, practitioners as well as law enforcement agents. (The list of participants is attached to the report).

The Executive Director (ED) of SACH highlighted the contribution of SACH towards the signature and ratification, which reflected the impact of SACH's mandate and work in support of torture victims. She spelt out the initiatives related to sensitizing and raising awareness of the Convention and the obligations the State is bound by. SACH's activities have been specifically focused on the training of the judiciary and law enforcement agents such as police, prison staff and health professionals. Furthermore, SACH has through interactive sessions and workshops empowered the police, prison staff, custodial staff, health professionals and judiciary by providing them with tools to improve their functions while dealing with torture victims positively. Thus, SACH has emphasized the need to work in partnership, engage the GOP, and build the institutional capacity. As a civil society organization, it is bridging the gap in a successful manner while it is the responsibility of the State to protect the citizens. The engagement of SACH has not been limited to the Government only. SACH reached out to the community who has an important role to play in protecting their rights. The ED emphasized the importance of the first report, which is expected to increase the ability of the Committee to assess the Government's performance in the implementation of the Convention. This is believed to help the Committee to have a thorough picture of the current level of compliance of the Government with requirements of the Convention. The ED added that the GOP would be able to see the gaps, accept the ground reality when they receive the concluding comments of the Committee after the submission. The Committee would examine the report and address its concerns and make recommendations to the GOP in the form of the

'concluding observations' and the GOP would in turn commit to implement the recommendations.

The current situation and the fight against terrorism allied with other state party's leaves little room for compliance. The efforts and support have to be extended to the Government keeping in mind the indigenous and traditional practices of torture and exploitation. The GOP has to be provided with the global technical corporation to prevent torture.

Advocate Ahmed Billal Sufi during his presentation focused on the technical and operational aspects in the `preparation of the report. In general, reporting procedures are meant to initiate and facilitate a 'constructive dialogue' between the supervisory body, which is the Committee, and the State Party He pointed out the importance for different stakeholders to come together for a comprehensive report. Once the Convention has been ratified, an extensive process should have been initiated. The period two years and two months between the signature and ratification was an important one to bring together a team to work on implementation of the Convention and towards compiling data on torture, changes and efforts towards its elimination. The Human Rights Ministry being assigned with the task would have to take the lead and along with the Ministry of Law and Justice and other organs of the Government such as the police, judiciary and Prisons, intelligence agencies and valuable inputs from SACH due to its advocacy role and specific attention to both progress as well as violations. Representatives of Political parties, religious scholars must be engaged to obtain the political will of the elected government. Academic institutions and the media can have useful inputs.

Between the signature and ratification a period of two years and two months have elapsed and this was a crucial period for the ground work for the preparation of the first period report whose presentation is scheduled in a couple of months. Instead of a mechanism for implementation being put in place, this period was constrained by domestic issues related to CAT. The report needs to reflect effort to comply with the reporting requirements of CAT and should not reflect lack of credibility. CAT does not have an implementing mechanism per say but has a reporting one. The purpose of a supervisory mechanism is to combat violations and to

promote compliance with a human rights treaty such as CAT. Such a mechanism should ideally function effectively.

A participant urged that a committee of experts should be set up for the preparation of the report. The State is obliged to report to the supervisory body on the domestic level of UNCAT, on the measures Pakistan has adopted which give effect to the rights of torture victims and on the progress made in the enjoyment of those rights. The ratification obligates Pakistan to assert responses to torture victims and the redress for the victims of torture. After the submission of the first report and receipt of the 'concluding observations', the next report is expected every four years. In the meantime, the GOP has to redress the grievances and implement the 'concluding observations'. The report must reflect on the administrative measures taken and effective legislative, judicial or other measures taken to prevent acts of torture.

The report is a necessary reminder of where Pakistan stands in terms of eradicating torture and its commitment to do so and efforts already initiated. Thus, it poses an opportunity for an assessment nationally. It will reflect the view of the Government of Pakistan on the issue of torture and its efforts to counter it at the state level. Pakistan may not have made legislative changes but the fact that it is acknowledged in the report and there is an expression of a move towards it would be considered as a step forward and a commitment to implement the legislation once it is in place.

It should be noted that the committee is liable to receive information and reports about Pakistan's human rights situation from other sources, including nongovernmental organizations, UN agencies, academic institutions, and the press as well as through individual complaints. These sources help set forth a wider perspective as to the actual situation in Pakistan. NGOs can prepare and submit an alternative or a 'shadow' report to the Committee, which would aim at counterbalancing the information submitted by Pakistan. In the light of the government report and the shadow report, the committee would examine the reports together with the government of Pakistan representatives. Based on this dialogue, the Committee would decide on concerns about and recommendations to Pakistan, which in their written form are referred to as 'concluding observations'.

SACH suggests that the looking forward strategy is to bring together like-minded civil society organizations and take them into confidence to contribute to a report based on the ground realities including the gaps and efforts of the GOP.

What is hoped through the first report is the commitment of Pakistan to honour the treaty in substance and spirit.

Mr. Zia Ahmad Khan, Trainer, National Institute of Public Administration, Peshawar proposed an integrated framework, which will cover the social, legal and psychological aspect of the Convention. He highlighted the importance of a data bank on torture. The statistics as well as documentation of cases should be used as supporting evidence in the report. For a comprehensive report, there should be coordinated effort at all levels of institutions of the GOP, the policy makers and civil society. Since SACH has a wealth of expertise in working on the issue, he suggested that a focal person should collaborate with SACH for the report to compile the data. A national training team should link up with the provinces and districts to develop the data bank on torture and how to reduce torture. The voices of the victims have to be reflected in the report. There should be a constant process of unlearning, reviewing and working together to contribute to the report.

Mr. Khalid Naeem, Director General (Retd.), Ministry of Women Development dealt on the best practices and lessons learnt through the periodic reports of treaties such as Convention on Child Rights (CRC) and CEDAW and the process leading to its development.

In the mid 1990s for the first report on CRC, a national commission was set up with cells in the provinces (EFA- Education for All). A national policy on child rights was formed along with a national steering committee. Numerous surveys, workshops were organized nationally, provincially and at district levels with the objective of sensitizing the masses and to collect data. A forceful media campaign was launched to intensify the sensitization. A resource centre was established at the federal level to collect, compile and analyze the data. An emergency cell was housed in the

Cabinet Division of the Pakistan Secretariat. He emphasized the importance of a close coordination with the focal point at the Ministry of Foreign Affairs.

The Minister of Law and Justice, Mr. Maula Baksh Chandio showed the government's commitment to UNCAT through his presence and sharing of his experience of torture while in detention. He demonstrated the courage to share and humility to learn from the participants. He stated that he was present in the consultation primarily to learn from the experts present and to express his commitment to work for the eradication of torture as implied in the Convention. He advised that the work should not be at the legislative level only but in the changing of the mindset, the practices and the unlearning of traditional practices. Thus, he sees it as a real revolution underway if the process is in this direction.

Mr. Shafique Mohammad deliberated on the monitoring of CAT and report writing. He stated that the implementation and understanding of CAT should have been utilized for putting in place a mechanism. The period between the signature and ratification was important and should have been utilized to further raise awareness, compile data, sensitize groups and set up the motion for the report writing implementation. The political will of the Government was acknowledged through the signature and ratification but he felt that the responsibility lies on all the stakeholders who should come together and share an equal responsibility. During the discussion pre-ratification there were numerous conditionality put forward by the global community, which was in support of a human rights culture being developed and leading to economic activities in Pakistan, which as a result the GOP concurred to.

He lauded the contribution of SACH and that of the previous Minister of Human Rights, Mr. Jilani who was the force behind the ratification and whom he considers as the champion who took the initiative to have it ratified. He led meetings in the Cabinet during three months prior to the ratification. It was forcefully suggested that SACH submits an independent report to the Committee.

Ms. Sitara Ayaz, Minister of Social Welfare and Women Development, Khyber Pakhtunkhwa commended the initiative of SACH to bring together the diverse stakeholders. She feels that after the signature and ratification of the treaty it is equally important to widely sensitize the masses, minimize torture especially in police custody. Awareness should be intensified through media and especially the radio to reach out to the rural population. She acknowledged the effort of SACH in the training of Police, custodian staff and the judges.

H.E Mr. Lars Gunnar Wigemark, the European Union Ambassador thanked SACH and the Executive Director for its lead on the issue. He viewed the signature and ratification as an important step vis a vis the international community. The EU attaches value to CAT as part of human rights conventions. It is very welcoming that Pakistan has ratified but has introduced ten general reservations. He stated that the EU is the most advanced legal organization, which gives much importance to the legal aspect and the rule of law. He suggested that CAT has to be integrated into the culture. He also announced that the GOP is about to lift most of the reservations and this is viewed as a step forward. The implementation of CAT is an issue of sensitizing, training, raising awareness and imparting best practices to judges, citizens, law enforcement agents. He advised that the principles of CAT should be integrated in the system, which will in turn lead to peace and stability in Pakistan. The ambassador emphasized that Pakistan should develop a spirit of compliance.

Mr. Malik Jawad, President Rawalpindi Bar Association referred to Article 4 of CAT. He stated that torture is not defined in any penal law but torture is treated as an offence. He feels that all citizens should be aware of their rights. He suggested that an inbuilt mechanism within the state should be set up for the reporting of grievances of victims of torture as well as efforts should be made for a widespread understanding of torture by all.

Ms. Farkhanda Aurangzeb, Joint Secretary, Ministry of Human Rights stated that there have been thoughtful deliberations at the Government level but the civil society has not been included in the process. . *She further added that all the reservations are likely to be withdrawn.*

Mr. Noor Ahmed Pirkani, Inspector General Prisons, Baluchistan strongly voiced that the reporting system must be amended in a manner so as the officials and state authority are protected.

During the vote of thanks, the ED of SACH reiterated that a process has been initiated and that there would be practical follow up meetings to reinforce the process towards a mechanism with the inputs of diverse stakeholders. During this consultation, the experienced, enlightened participants were generous in their sharing of experiences and showed commitment to work towards a society free of torture. She highlighted the important role of the medico legal professionals and their understanding that torture victims are to be treated differently. Additionally, she urged the media to report torture in a sensitive manner and have an intellectual and professional approach rather than a sensational one.

She commended SACH's team without whose courage, commitment, passion and dedication the journey in support of victims of torture could not be undertaken or continued. This team has taken the lead in eradicating torture and indeed, it is a challenging journey for them. She thanked each participant of the Consultation who came together on this platform and contributed to a wealth of information.

Recommendations

- An assessment of where we stand in Pakistan vis a vis measures to combat and eliminate torture.
- A clear message is to be conveyed through the report of Pakistan's commitment and how Pakistan as a state is willing to comply with the Convention.
- The legal changes brought to prohibit torture should be highlighted.
- The report should be wholesome and reflect initiatives aimed at preventing violations and promoting compliance of UNCAT.
- A response on each article should be formulated as what steps have been taken or are to be taken.
- Attention is to be given to the 18th amendment as who is to respond to violation.

- The Federal Government is responsible to respond and retains the power to institute laws.
 - A provincial coordination body to be set up for providing inputs to the report on the efforts undertaken in the provinces to eradicate torture.
 - All sources in the report should be supported by evidence and empirical examples.
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- All stakeholders should be involved in the process and understand that this is a delicate process on a sensitive issue.
 - A consultative process of civil society organizations similar to the CEDAW one prior to the first CEDAW periodic report submission, which generated a shadow report, submitted simultaneously as the Government report.
 - Immediate identification of stakeholders post 18th amendment.
 - Set up of working groups at the Federal, provincial and district levels.
 - Coordination with the UN agencies and other donors.
 - TORs to be developed for each task force.
 - Organize a national consultation.

Conclusion

It is through the SACH initiative in Pakistan, that for the first time, the process of sharing and learning on reporting and developing an implementation strategy on CAT is being taken seriously and a transparent interactive mechanism is being proposed to be established where the government and those committed to eliminate torture can jointly contribute to the progress on the fulfillment of obligations under the Convention. The consultation was a model for dialogue and learning on CAT between Government and other representatives and at the same time it was intellectually stimulating, insightful and most importantly raised the issue of torture and the binding obligations of the GOP through the signature and ratification of CAT. The Government seems to be more aware of the nuances and scope of the Convention significance of the reporting process. Those present at the Consultation had a better understanding of CAT processes- reporting, implementation and monitoring

and was a great learning experience. Key recommendations related to the report drafting were

- That the opening statement should highlight the government's achievements, it should be positive, not defensive, nor in denial or adversarial.
- A continuous dialogue should be maintained with NGOs
- Multi disciplinary (multi-ministerial) task force must be set up for inputs into the report.
- Orientation and sensitization sessions on CAT for working group.
- Ministry of Human Rights should consider themselves champion of CAT- sensitize other ministries. Make CAT an integral component of all advocacy and training workshops.

The Consultation was widely covered by the electronic and print media, notably by two FM Radios, the national TV channel and Pakistan Broadcasting Cooperation. Thus, the issue of torture, the Convention and the effort in putting in place a mechanism for the implementation and reporting of CAT were widely highlighted. The reach out has been to both the urban as well as the rural population. The impact is clearly that the issue of torture has come out of the private closed environment to a public sphere, which is within reach of every citizen. The process is in motion and the momentum has to be maintained.

Pictorial overview











