



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

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APT submission on Honduras

4 July 2016

Alternative report from the Association for the Prevention of Torture (APT) to the Committee against Torture providing background information and suggested recommendations on torture prevention and the Optional Protocol to the Convention against Torture (OPCAT) for **Honduras**, whose second periodic report will be considered by the Committee during its 58th session in Geneva.

The Association for the Prevention of Torture (APT) is an independent NGO based in Geneva. We work for a world free from torture, where the rights and dignity of all persons deprived of liberty are respected.

To achieve this vision we:

- Advocate for strengthened legal and policy frameworks,*
- Promote improved detention practices, and*
- Advise on effective public oversight.*

1. Key facts

- UNCAT accession on 5 December 1996
- OPCAT ratification on 23 May 2006
- The NPM (CONAPREV) was established by law in 2008

2. Background information

Over the past ten years, Honduras and its penitentiary system have been under international scrutiny due to continuous violent incidents and the number of deaths that have been recorded in prisons.

One of the most horrendous events took place in 2012, when a fire at the National Penitentiary of Comayagua resulted in 362 deaths. Before that, in May 2004, another 107 inmates died as a consequence of a fire at the San Pedro Sula prison. The Center for the Prevention, Treatment and Rehabilitation of Torture Victims and their Relatives (CPTRT) has also confirmed the trend of violence in prisons.¹

According to a report published by the Inter- American Commission on Human Rights (CIDH) in 2013, Honduras holds “a collapsed prison system, with serious structural deficiencies and in which the fundamental rights of prisoners are systematically violated”.² The CIDH concluded that the above problems are the result of “decades-long absence of comprehensive public policies”.³

In such a context, the APT is acutely aware of the possibilities for more effective government action to prevent torture and other forms of ill-treatment in Honduras prisons, pursuant to articles 2, 10, and 16 of the Convention.

3. The National Preventive Mechanism

Without comprehensive government policies to regulate detention in a way which is compliant with the UN Convention against Torture and other UN standards, the National Preventive Mechanism (CONAPREV) in Honduras is of greater importance. By identifying the risks of torture and ill-treatment and proposing recommendations to authorities, they play a key role to reverse violence, improve conditions and treatment of people as well as other shortcomings of the prison system.

The Honduras NPM was created by law in 2008,⁴ and has been carrying out visits to places of detention and making recommendations to numerous authorities since selection of its members in 2010. Nevertheless, in order to increase its impact and achieve its potential,

¹ “Veeduría civil a cargo de policías y militares en las ciudades de Tegucigalpa y San Pedro Sula”. Publicado en el 2015 en https://issuu.com/danacruz/docs/investigaci_n_cprrt.

² Page 10. CIDH: Report on Persons deprived of their liberty in Honduras. 2013. http://www.oas.org/en/iachr/media_center/PReleases/2013/058.asp.

³ *Ibid.* Page 10.

⁴ Decreto Legislativo 136-2008.

CONAPREV needs to be fully supported by the Honduran State, particularly in the following matters:

3.1. NPM Independence

Article 18 of the OPCAT provides: “the States parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.”

In 2013, after a visit to Honduras, the UN Subcommittee on Prevention of Torture (SPT) emphasised that CONAPREV “should carry out all aspects of its mandate in a manner which does not give rise to actual or perceived conflicts of interest”. By then, the SPT recommended the NPM members to refrain from holding or taking up positions which could raise conflicts of interest.⁵

Although the selection process for the members is defined in the NPM law, the process contains some weaknesses that could undermine the NPM independence if they are not properly addressed.

According to Article 8 of the NPM law (*Ley del Mecanismo Nacional de Prevención contra la Tortura y otros Tratos, Crueles , Inhumanos y Degradantes*), the NPM is comprised of three members; one proposed by the Legislative, one by the Executive and the third by civil society. The government Secretariat for Justice and Human Rights then reviews the candidates and calls for the selection of members publicly, passing the details of candidates fulfilling the criteria to a selecting body made up of civil society members.

According to the SPT Guidelines on National Preventive Mechanisms,⁶ the selection process of the NPM members should be open, transparent and inclusive. It is a responsibility of each State party to assure NPM independence by not appointing members who hold positions which could raise conflicts of interest.

The NPM member proposed by civil society will end her mandate in less than three months and a new member will be selected next September. Consequently, the Honduran civil society (led by the Non-governmental organisation CPTRT) is currently drafting regulations for the selection process to assure the role retains functional independence. These regulations will be presented to the Secretariat for Justice and Human Rights, and civil society has announced that it expects this institution to adopt the regulations.

The APT recommends that it is necessary to draft similar regulations to guarantee that the selection of all members (including those from the Executive and the Legislative) are equally independent.

⁵ Report on the visit made by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment for the purpose of providing advisory assistance to the national preventive mechanism of Honduras in 2013. http://www2.ohchr.org/English/bodies/cat/opcat/docs/CAT.OP.HND.3_en.doc.

⁶ SPT : Directrices relativas a los mecanismos nacionales de prevención, 2010. http://www2.ohchr.org/english/bodies/cat/opcat/docs/SPT_Guidelines_NPM_sp.doc.

3.2. Sufficient Budget and Resources for the NPM

According to a report published in 2013 by the SPT following their visit to Honduras,⁷ one of the main institutional factors impeding the work of the NPM was its insufficient budget.⁸

Over the years, the State has gradually increased the allocation of budgetary funds and resources to the NPM. However, with the exception of 2015, the allocated budget has neither been the amount requested nor the amount approved by the Government. For instance, in 2011, the State approved 3 million Lempiras (132,450.33 USD), but only 2 million were allocated to the NPM. In 2012, 5 million were agreed, but only 3 were received. According to the NPM, in 2016, the government approved 9 million, while only 2 million has (so far) been made available.

In order to extend the geographic scope of its work, last year CONAPREV launched an innovative initiative to set up local committees on torture prevention in different regions of the country. These committees aim at strengthening the NPM's work by carrying out monitoring visits and helping with the implementation of recommendations made by NPM in the region where they are located. According to the NPM, two are operating only through the support of external funding for 2016. Nevertheless, the APT considers that the State has a duty to support their functioning, as there is a high risk that the work of CONAPREV in the regions where the committees operate will be undermined or weakened, which will have an impact on the effectiveness of the NPM, as these committees will be unable to continue their work should funds for the 2017 budget not be assured.

3.3. NPM Recommendations

Article 22 of the OPCAT provides: "the State party concerned shall examine the recommendations of the NPM and enter into a dialogue with it on possible implementation measures."⁹

Recently, Honduras has reported to this Committee that many of the NPM recommendations are carried out following discussions with the authorities in charge of the detention centres.¹⁰ However, according to CONAPREV,¹¹ a large number of its recommendations have not been implemented, and some of the recommendations have been issued repeatedly.

Among the recommendations made regularly by the NPM are: the increase of judges whose role is to monitor the enforcement of sentences (presently 28 for a total population of some

⁷ Report on the visit made by the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment for the purpose of providing advisory assistance to the national preventive mechanism of Honduras in 2013. http://www2.ohchr.org/English/bodies/cat/opcat/docs/CAT.OP.HND.3_en.doc.

⁸ *Ibid.*

⁹ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx>.

¹⁰ Examen de los informes presentados por los Estados partes en virtud del artículo 19 de la Convención con arreglo al procedimiento facultativo de presentación de informes.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/181/34/PDF/G1518134.pdf?OpenElement>

¹¹ These are the main problems CONAPREV have addressed in recommendations many times and in other advocacy tools, including their public statements.

17,800); the withdrawal of the military from the administration of the penitentiary system (which is prohibited by law); and the urgent increase of the 13, 5 Lempira budget (0.5 USD daily) for food at prisons,¹² *inter alia*. These recommendations have not yet been fully addressed.

It is our submission that the implementation of recommendations requires strong political will, investment and a comprehensive plan of action (combining different measures). Honduras has not been able to undertake these measures so far, and we would encourage the Committee to take this into consideration at the forthcoming review.

Only short-term NPM recommendations, particularly from minor (but important) aspects at the visited detention centres, have been followed by some prison directors. However, the fact that prison authorities change on a regular basis, seriously undermines the scope and impact during the implementation of more systematic, structural and meaningful recommendations.

4. Suggested questions and recommendations

In light of the above information, the APT proposes that the Committee against Torture ask the following questions and make the following recommendations during the review of Honduras's second periodic report, to better implement preventive articles of the UNCAT:

Suggested questions

- Please provide information on the measures the State party will undertake to avoid appointing NPM members holding positions that could raise conflicts of interest.
- Please provide information on the reasons why the State party does not allocate the entire budget approved for the NPM, and the measures it is going to adopt in order to remedy this situation.
- Please provide information on how the State will assure that the NPM's committees on torture prevention will not disappear due to a lack of funds.
- Please provide information on the measures the State party intends to adopt to implement NPM recommendations that address structural problems from the penitentiary system.
- Please provide information on how the State will address the negative impact that staff changes, particularly prison directors has on the implementation of the NPM recommendations.

Suggested recommendations

- The Honduran Government should revise the NPM law's provisions on the selection process of NPM members to assure a public, transparent and inclusive process, in line with SPT guidelines. In the meantime, Honduras should consider the adoption of regulations to select the new civil society member, and should consider the

¹² This recommendation was partially addressed. As a result of the constructed dialogue established by the NPM with different authorities, an agreement was reached last year to increase food budget from 13, 5 Lempira to 30 Lempira. However, this measure has not been fully implemented nationally and, today, many prisons across the country experience important food shortages.

establishment of a similar set of regulations for the selection of the other two members proposed by the Legislative and the Executive.

- The Honduran Government should speed up the allocation of funds to the NPM for this year and should respect all budgetary decisions that are approved every year to ensure Art.18.3 of the OPCAT is respected.
- The Honduran Government should respect its obligation under Art.22 of the OPCAT, examining and engaging into dialogue with the NPM in regards to its recommendations, particularly those involving structural problems.