



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**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**

Report for the national preventive mechanism*, **

* In accordance with the decision taken by the Subcommittee at its fifth session regarding the publication of its visit reports, the present document was not edited before being sent to the United Nations translation services.

** Pursuant to article 16, paragraph 1, of the Optional Protocol, this report was sent confidentially to the State party on 17 September 2012. The national preventive mechanism informed of its decision to have it published, pursuant to article 16, paragraph 2, of the Protocol, on 30 October 2012.

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I. Introduction

1. In accordance with its mandate as set forth in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Optional Protocol”), members of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Subcommittee”) visited the Republic of Honduras from 30 April to 4 May 2012.

2. The primary objective of the visit was to provide advisory services and technical assistance to the national preventive mechanism of Honduras as specified in article 11 (b) of the Optional Protocol. The visit was also intended to assist in building the capacity and reinforcing the mandate of the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as “the national preventive mechanism”). Another aim of this visit was to assess the extent of compliance with the recommendations made by the Subcommittee during its first mission to the country, in 2009.

3. This report sets out a series of recommendations for the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment (CONAPREV), which is the national preventive mechanism of Honduras. These recommendations are made in line with the Subcommittee’s duty to offer training and technical assistance with a view to capacity-building and to advise and assist national preventive mechanisms in evaluating their needs and identifying measures for providing greater protection for persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment in accordance with article 11 (b), subparagraphs (ii) and (iii), of the Optional Protocol.

4. This report will be forwarded to the national preventive mechanism on a confidential basis; it will be up to the national preventive mechanism to decide whether or not to make it public. **The Subcommittee does, however, recommend that the national preventive mechanism make the report public and requests that it be notified of the mechanism’s decision in that regard.**

5. The Subcommittee will prepare a separate confidential report for the Honduran authorities in which it will make recommendations to the State party.

II. Recommendations for the national preventive mechanism

6. Members of the Subcommittee and CONAPREV jointly visited six places of detention.¹ The choice of those six facilities was agreed upon by the two bodies. The only stipulation in this respect was that the visits should include certain places of detention that had been visited by members of the Subcommittee in 2009. The planning of the visits was also a joint undertaking. During the visits themselves, members of the Subcommittee played a secondary role, while members of the national preventive mechanism led the delegation.

7. In the course of these visits, members of the Subcommittee were able to observe the working methods used by CONAPREV. Their overall impression was a good one.

¹ The places of detention which were visited were: the Manchén district police station, the Belén district police station, CORE7, the National Criminal Investigation Directorate, the Marco Aurelio Soto National Penitentiary and the Comayagua Prison Farm.

CONAPREV appears to have a great deal of potential as a national preventive mechanism – a potential that can be developed if it is given the human and financial resources that it needs to do its job, to build its technical capacities and to improve the methodology it uses in visiting facilities and the quality of the reports it prepares on those visits. The Subcommittee is of the view that the members and staff of the national preventive mechanism should be required to review their working methods on a regular basis and undertake further training in order to enhance their ability to perform the functions entrusted to them under the Optional Protocol.²

8. In addition to visiting places of detention in conjunction with CONAPREV, members of the Subcommittee held meetings with a number of different officials and civil society organizations to discuss institutional aspects of the national preventive mechanism and its relationship with other bodies. Representatives of CONAPREV were present at only some of these meetings.

Recommendations relating to institutional issues

9. The Subcommittee found that the main institutional factors impeding the work of the national preventive mechanism were an insufficient budget, a poorly structured staffing table and the mechanism's low public profile. The Subcommittee is aware that CONAPREV has taken steps to address some of these problems by, for example, creating a web page and publishing a manual on torture prevention. The Subcommittee is also aware that CONAPREV is a fairly new institution and that it is not entirely to blame for these problems. The Subcommittee is therefore making recommendations to the State party in these connections. There are, however, steps that CONAPREV can take to improve its performance, as outlined below.

10. During their visit to Honduras, members of the Subcommittee contacted the President and the Minister of Finance with a view to facilitating the release of pending budget allocations for 2012 to CONAPREV. They also approached Members of Congress and urged them to consider amending the CONAPREV Organization Act in order to resolve the problems encountered in this respect. CONAPREV, for its part, should take steps to back up the efforts made on its behalf by the Subcommittee. **The Subcommittee recommends that the national preventive mechanism execute its annual budget in a timely and responsible manner on the basis of a pre-established workplan and that it ensure that allocations are disbursed in the year for which they were granted. As a minimum, this plan should provide for a well-structured staffing table (one that maintains a gender balance and ensures the inclusion of members of the country's ethnic and minority groups) that is in accordance with the organization's regulations and should give a description of each post.**

11. **The Subcommittee recommends that the national preventive mechanism submit a proposal to the legislature for an amendment to the applicable law so that CONAPREV can have a budget of its own. The preventive mechanism should also lobby for this type of solution.**

12. Until such time as the mechanism has a technical secretariat, **the Subcommittee recommends that, in order to address the mechanism's staff shortage, it should explore creative ways of strengthening the human resources at its disposal by, for example, setting up internship programmes or partnering with universities and civil society.**

² CAT/OP/12/5, para. 31.

13. With regard to the mechanism's low public profile, **the Subcommittee recommends that CONAPREV organize activities to increase its institutional visibility, design a strategy for making its mandate and work known to the general public, and develop a simple, accessible procedure through which the general public can provide it with relevant information.**³ **The Subcommittee further recommends that the national preventive mechanism organize conferences and workshops, participate proactively in government meetings relating to its mandate and issue reports. In addition, the Subcommittee recommends that the national preventive mechanism increase its contacts and cooperation with other national and international stakeholders such as the relevant ministries, the Office of the National Commissioner for Human Rights and the national preventive mechanisms of other countries.**

14. In order to fully discharge its mandate in accordance with article 19 (c) of the Optional Protocol and article 13, paragraph 9, of Decree No. 136/2008, **the Subcommittee recommends that the national preventive mechanism take proactive steps to submit proposals and comments concerning existing or draft legislation that deals with the prevention of torture and other forms of ill-treatment. To that end, it should have a strategy for setting priorities and should follow up on the comments that it makes.**⁴

15. The Subcommittee would like to emphasize that the national preventive mechanism should carry out all aspects of its mandate in a manner which does not give rise to actual or perceived conflicts of interest.⁵ In order to ensure the mechanism's independence, **the Subcommittee recommends that members of the national preventive mechanism refrain from holding or taking up positions which could give rise to conflicts of interest.**⁶

16. The Subcommittee notes that the national preventive mechanism is responsible for monitoring the implementation of any recommendations that the Subcommittee may make with respect to Honduras. The Subcommittee is gratified to have learned that CONAPREV designed a matrix for use in following up on the recommendations set out in the Subcommittee's report of 2009. The Subcommittee considers this to be an example of good practice.

Methodological recommendations

17. In order to assist and advise the national preventive mechanism in its task of protecting persons who have been deprived of their liberty, the Subcommittee is making the following recommendations concerning preparations for visits to places of detention, the methods to be used during such visits and steps to be taken following their completion.

Preparations for visits

18. The national preventive mechanism should establish a workplan or programme which, over time, encompasses visits to all locations under the jurisdiction of the State where persons are or may be deprived of their liberty, in accordance with articles 4 and 29 of the Optional Protocol.⁷ **The Subcommittee recommends that the national preventive mechanism develop criteria for selecting the facilities to be visited that will ensure that they are all visited periodically. These criteria should be based on the type and size of the institutions and the severity of the human rights issues of which the mechanism is**

³ CAT/OP/1, para. 33.

⁴ CAT/OP/12/5, para. 35.

⁵ CAT/OP/12/5, para. 30.

⁶ CAT/OP/12/5, para. 19.

⁷ CAT/OP/12/5, para. 33.

aware, while not excluding any type of institution or any geographic area from the scope of its work.

19. The national preventive mechanism should plan its work and its use of resources in such a way as to ensure that it is able to conduct its visits to places of detention properly.⁸ **The Subcommittee recommends that the national preventive mechanism divide up the tasks to be conducted by its members before their arrival at a place of detention in order to avoid any duplication of work and to enable them to cover as many areas as possible. It also recommends that they choose specific issues to be addressed with particular attention during each visit. The make-up of the visiting team should be such as to allow both general and specific issues to be covered and should include a health-care professional, preferably a doctor.**

20. The Subcommittee believes that, in the medium term, it is important for the national preventive mechanism to have operational guidelines and handbooks that will provide a means of transferring knowledge when the membership of CONAPREV changes. **The Subcommittee recommends that the national preventive mechanism develop guidelines for visits to the various types of places of detention, including guidelines for conducting private interviews, as well as policies for dealing with vulnerable groups of inmates and ensuring that information from all available sources is collected.**⁹

21. The Subcommittee believes that unannounced visits or visits for which short notice is given make it possible to obtain a clearer picture of the prevailing conditions in places of detention. **The Subcommittee recommends that information about the national preventive mechanism's visits should be kept confidential so that unannounced visits can be made.**

During visits

22. Overall, the members of the Subcommittee observed that the CONAPREV team members behaved correctly in their dealings with the authorities in places of detention. They also observed, however, that the team's contacts with persons deprived of their liberty were extremely brief and that the principle that interviews should be confidential and voluntary was not fully respected. The Subcommittee is of the view that an accurate, complete presentation of the mechanism's mandate and objectives facilitates communication with interviewees and thus improves the interviews. **The Subcommittee recommends that the members of the national preventive mechanism introduce themselves to persons being held in custody and tell them their name, profession and the position they occupy in the national preventive mechanism. The interviewer should explain what the mandate of the national preventive mechanism is, placing particular emphasis on its preventive nature. The interviewer should also obtain the consent of the interviewee and make it clear that the interview is confidential, voluntary and can be interrupted at any time at the interviewee's request. The Subcommittee also recommends that the national preventive mechanism prepare a pamphlet that describes its mandate and working methods, explains the concept of informed consent and provides contact information. It should also indicate that any type of reprisal should be reported to the national preventive mechanism.**

23. Private interviews of persons who have been deprived of their liberty are a fundamental component of preventive visits and are specifically authorized in the Optional Protocol.¹⁰ **In principle, unless there are sound reasons for doing otherwise, the**

⁸ CAT/OP/12/5, para. 34.

⁹ CAT/OP/1, para. 13.

¹⁰ Optional Protocol, art. 20 (d).

Subcommittee recommends that the national preventive mechanism hold private, individual interviews with persons being held in custody and with employees, including medical personnel, of the institution that is being visited.

24. In addition, the Subcommittee recommends that, as a general rule, members of the national preventive mechanism include questions about the health of persons who are being held in custody and about their access to a doctor or other health professional.

25. The Subcommittee recommends that the team of the national preventive mechanism tour all the facilities in the institutions that its members visit and that the team systematically examine those institutions' records and files so that they can be cross-checked with information from other sources. If records are unavailable, then the national preventive mechanism should recommend changes in existing practices that will make it possible to check inmate records and files.

26. The Subcommittee believes that a full picture of the situation in any given place of detention can be obtained only by thoroughly inspecting the facilities, examining the institution's records, and talking to inmates and staff. In view of the fact that CONAPREV has so few members at present, the Subcommittee believes it to be extremely important for all of its members to speak with inmates during visits. **The Subcommittee recommends that all members of the national preventive mechanism speak with inmates and that they not place more priority on speaking with the authorities of places of detention than on interviewing inmates.**

27. Members of the Subcommittee observed that, on occasion, some members of CONAPREV focused on specific complaints made by inmates and tried to resolve the situation. Although the attempt to resolve individual cases is praiseworthy, the Subcommittee recalls that the national preventive mechanism's mandate differs from those of other bodies that work to combat torture, such as the Office of the National Commissioner for Human Rights, in that it focuses on prevention, on identifying causal factors and on detecting cases in which a systemic risk of torture exists. **The Subcommittee recommends that the national preventive mechanism develop clear guidelines for reporting cases of torture or ill-treatment and other violations of the rights of persons who have been deprived of their liberty and for requesting, with the consent of the interviewee in question, that investigations be opened.**

Follow-up to visits

28. The national preventive mechanism should prepare reports on the visits it conducts.¹¹ Its visits will be much less effective if it does not issue a report following each visit. **The Subcommittee recommends that a report should be an output for every visit conducted by the national preventive mechanism. The report should focus on prevention and on identifying the problems that exist and proposing solutions in the form of recommendations. These recommendations must be well-founded, should be directed towards developing preventive measures to deal with shortcomings in systems and practices, and should be practicable.**¹² The Subcommittee recommends that the national preventive mechanism cover more issues in its visit reports, improve its coverage and be more thorough in this regard. It should also, in particular, bear in mind United Nations standards (including those reflected in the Subcommittee's

¹¹ CAT/OP/12/5, para. 36.

¹² CAT/OP/1, para. 20.

observations and recommendations) in respect of the prevention of torture and other forms of ill-treatment.

29. The national preventive mechanism should devise a strategy for presenting its visit reports to the authorities for publication and distribution and for using them as a platform for dialogue.¹³ **The Subcommittee believes that the current practice of CONAPREV of publishing its visit reports is a good one and recommends that it continue this practice as long as it feels that it is appropriate. The Subcommittee recommends that the national preventive mechanism set up mechanisms for following up on its recommendations and that it do this, insofar as possible, in conjunction with the authorities.**

30. **The Subcommittee recommends that the national preventive mechanism make follow-up visits to the more problematic institutions.**¹⁴

Recommendations regarding joint visits to places of detention

31. **The Subcommittee recommends that future visits to the Marco Aurelio Soto National Penitentiary include an examination of the conditions in which mentally ill inmates are held and of the way they are treated and a review of the procedures used for referring inmates in need of specialized medical care to specialists outside the penitentiary.**

32. In the case of visits to police stations, **the Subcommittee recommends the following:**

- **Short-, medium- and long-term objectives should be defined with a view to the establishment of a system for ensuring that persons arrested by the police have access to a doctor and that examination protocols are in place that will permit reliable information to be gathered regarding cases of torture or ill-treatment;**
- **Steps should be taken to act upon the Subcommittee's recommendation regarding the establishment of a team of medical/psychological experts to conduct thorough examinations as outlined in the Istanbul Protocol. Medical personnel should work independently from the police.**

Information on these objectives should be disseminated by such means as the national preventive mechanism's annual reports and workshops for public officials, forensic physicians and doctors working in prisons. The participants in such workshops should, if possible, include national and international medical and psychological experts.

¹³ CAT/OP/1, para. 21; CAT/OP/12/5, para. 38.

¹⁴ CAT/OP/1, para. 24.