



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Concluding observations on the second periodic report of  
Honduras**

Addendum

**Information received from Honduras on follow-up to the  
concluding observations\***

[Date received: 14 August 2017]

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\* The present document is being issued without formal editing.



## Introduction

1. Honduras attended the Committee against Torture on 27 and 28 July 2016 to present its second periodic report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In its concluding observations, the Committee requested that the State party provide information on the follow-up to the Committee's recommendations included in paragraphs 16, 20 (a) and (c), 30 and 44.

2. In that context, Honduras, in accordance with its international commitments, particularly those under the universal system for the protection of human rights, has prepared this follow-up report on the implementation of the Committee's recommendations.

3. The process was coordinated by the Ministry of Human Rights, Justice, Governance and Decentralization, through the Directorate-General for Research in Compliance with International Obligations. To that end, ministries, decentralized agencies, the legislature, the judiciary, the Public Prosecution Service, the Counsel-General's Office and independent institutions such as the Office of the National Commissioner for Human Rights and the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment, the national preventive mechanism, analysed the Committee's recommendations to establish which of them fell within their respective jurisdictions. This was conducted through the Recommendation Monitoring System of Honduras.

4. Under that System, 10 sectoral working groups have been established, including 1 on persons deprived of their liberty, in which the relevant State bodies prioritize recommendations and decide what action to take in order to implement them.

5. Honduras reaffirms its willingness to abide by its international obligations and undertakes to present in its next report the action taken on the concluding observations contained in document CAT/C/HND/CO/2.

## Follow-up report on recommendations (paragraphs 16, 20 (a) and (c), 30 and 44)

6. Pursuant to paragraph 53 of the concluding observations on the second periodic report of Honduras to the Committee, Honduras wishes to report on the follow-up to the recommendations contained in paragraphs 16, 20 (a) and (c), 30 and 44.

### Control and management of the prison system

*Paragraph 16. The Committee urges the State party to prioritize handing over the management of prisons to the National Prison Institute. The State party should end the practice of detaining persons accused of ordinary crimes in military facilities.*

7. With regard to this recommendation, in February 2017 a National Director and Deputy Director, both of them civilians with legal qualifications, were appointed to head the National Prison Institute in accordance with article 15 of the National Prison System Act.

8. Moreover, it is important to make clear to the Committee that responsibility for prisons had been transferred from the Ministry of Security to the National Prison Institute in 2012 and a transitional committee was in charge for two years. From 2014, the Institute was run by the military as a temporary measure.

9. In addition, as the Committee is aware, the Government has, as a stopgap measure, been using four military facilities run by the Honduran armed forces. However, the detention status and conditions of the persons deprived of their liberty are the responsibility of civilian prison officers trained by the National Prison Academy.

10. With regard to "[ending] the practice of detaining persons accused of ordinary crimes in military facilities", in view of the prison situation in the country generally and in order to guarantee protection for the lives and personal integrity of persons deprived of

their liberty, the National Prison Institute, acting under article 24 of the National Prison System Act, decided, as a temporary measure, to move some of the persons deprived of their liberty to separate quarters. Some were moved because they were high profile ex-civil servants who were at greater risk from other prisoners, while others were highly dangerous and could put other prisoners at risk.

11. The four military facilities used for holding persons deprived of their liberty are: Los Cobras Remand Centre (6 persons deprived of their liberty); First Infantry Battalion (21); Second Tactical Infantry Battalion (5); Naco Cortés Third Infantry Battalion (15). The National Prison Institute's Strategic Plan is in the process of being approved. It provides for an end to the use of military facilities by late 2018. As the Committee will appreciate, the 47 prisoners involved represent 0.25 per cent of the total prison population and will be transferred to the new prisons now under construction.

### **Conditions of detention**

*Paragraph 20. The State party should: (a) Redouble its efforts to relieve overcrowding in penal institutions, mainly by making use of alternatives to custodial sentences; (c) Guarantee security inside prisons by providing appropriate training to prison staff and by developing strategies to reduce violence among prisoners.*

12. Regarding subparagraph (a), one of the short-term measures implemented is the construction of new prisons and the remodelling of some existing ones. While this is not the only action that the Government needs to take, it goes a long way towards resolving the emergency in the National Prison System.

13. The new prison buildings meet the relevant international standards. One of the new prisons is located in the municipality of Quimistán, Santa Bárbara department, and has 6 blocks and a maximum capacity of 1,200 inmates; it is expected to be completed by early 2018. Another prison with 1,340 places has just been completed in Ilima, Santa Bárbara, and is now operational and currently holds 1,307 prisoners; and the third is in the municipality of Morocelí, El Paraíso department, and has a maximum capacity of 1,340 inmates. In parallel, the Government has launched major initiatives to find alternatives to pretrial detention with the aim of reducing overcrowding; at present Honduras has 25 prisons in all, with a capacity of 10,908, while the prison population numbered 18,878 as at August 2017. Examples of these measures are:

(a) Transfer of 1,304 inmates from San Pedro Sula prison to Ilima, Santa Bárbara, with plans to transfer another group by the last quarter of the year with the aim of closing this prison;

(b) A proposal by the National Prison Institute, through the Interdisciplinary Technical Committees, to the Ministry of General Government Coordination, for the release of particularly vulnerable prisoners on humanitarian grounds. This measure targets 685 prisoners in the following categories: (1) older persons (aged 60 and over) with some form of disability (303); (2) persons with mental disabilities (158); (3) families detained on the basis of charges against a single family member (224);

(c) Referral to Congress of a proposal to amend the Code of Criminal Procedure to permit virtual hearings, to avoid delays in legal proceedings, and individual electronic monitoring as an alternative to pretrial detention;

(d) Approval by the Supreme Court of the National Plan to Eliminate Judicial Delays, which puts forward measures for the entire judiciary and, in criminal matters, provides for ex officio application of the statute of limitations to inactive cases in accordance with article 4 of the Special Act concerning transition and inter-agency oversight of the criminal justice system and the prescription of punishment in accordance with article 97 of the Criminal Code.

14. With regard to subparagraph (c), in order to “guarantee security inside prisons by providing appropriate training to prison staff” the National Prison Institute, through the National Prison Academy, has launched a training programme for prison officers to ensure that they have a professional profile based on ethical behaviour, respect for human rights and commitment to the rehabilitation, re-education and reintegration of persons deprived of

their liberty. Since 2016, 437 prison officers have graduated in 5 groups; 198 in the first, 101 in the second, 67 in the third, 29 in the fourth and 42 in the fifth.

15. To “reduce violence among prisoners”, the following steps have been taken:

(a) As an ongoing strategy to reduce violence in prisons, unannounced inspections are carried out from time to time, as a result of which weapons, drugs, alcoholic drinks and other items have been seized;

(b) A manual on the conduct of searches has been developed and is awaiting adoption;

(c) Since the beginning of 2017, 12 prison directors and 7 deputy directors have been suspended for irregularities and are under investigation by the Public Prosecution Service. One deputy director has been dismissed. In addition, 46 prison officers have been separated from service, of whom 14 were removed for serious offences and 32 took voluntary retirement. This sent an important message to the remaining staff of the National Prison Institute and helped restore good governance in prisons;

(d) The 14 cases of prison guards who agreed to bring banned items into prisons have been referred to the Public Prosecution Service;

(e) As a security measure for the proper administration of prisons, there is a continuous rotation of directors and deputy directors;

(f) In order to strengthen the Interdisciplinary Technical Committees, a performance manual is currently being developed;

(g) Since 2016, the Interdisciplinary Technical Committees have been working on classification so as to facilitate the segregation of persons deprived of their liberty in accordance with the degree of threat they pose, for transfer to the new maximum security prisons; this has made for a more harmonious atmosphere in the prisons;

(h) A plan has been developed to stop cash circulating, replacing it with a debit card that can also be used in the commissaries or convenience stores now being built in prisons. This measure is aimed at improving control of prisoners’ access to illegal resources and purchases;

(i) In order to improve control of individual access to prisons, the National Regulations on Prison Visits<sup>1</sup> have been adopted.

16. Moreover, the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment has carried out training sessions for public officials and persons deprived of their liberty. During 2017, 657 people (536 men and 121 women) have received training on human rights and the prevention of torture, the disciplinary and interdisciplinary regulations, and fundamental rights and the prison system.

### **National preventive mechanism**

*Paragraph 30. The State party should ensure that the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment has sufficient resources to carry out its role effectively and independently, in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee urges the State party to adopt criteria for the selection of the National Committee’s members based on the guidelines on national preventive mechanisms issued by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see CAT/OP/12/5, paras. 16-20). The State party should also ensure effective follow-up on and implementation of the recommendations made by the National Committee on the basis of its monitoring activities (ibid., paras. 13 and 38).*

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<sup>1</sup> Agreement No. 001-2016 of the National Prison Institute Steering Committee in Official Gazette No. 34171 of 27 October 2016.

17. In order to “ensure that the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment has sufficient resources to carry out its role effectively and independently, in accordance with the Optional Protocol to the Convention”, the Ministry of Human Rights, Justice, Governance and Decentralization has referred this recommendation to the Ministry of Finance under Official Communication No. SSDHJ-0241-2017, requesting an analysis of the budget increase requested by the National Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment for the 2018 financial year.

18. For the Committee’s information, the National Committee has not obtained a budget increase owing to low budget expenditure in previous years. However, the Ministry of General Government Coordination has provided assistance in support of the budget planning process. The budget approved for the National Committee in 2017 was 9,000,000 million lempiras.

19. Moreover, Government efforts have been supplemented by international cooperation from, for example, the European Union for the Honduras Human Rights Support Programme; the United Nations Development Programme (UNDP) in association with the Office of the United Nations High Commissioner for Human Rights (OHCHR); the Swiss Agency for Development and Cooperation and the Subcommittee on Prevention of Torture.

20. With regard to the adoption of “criteria for the selection of the National Committee’s members based on the guidelines on national preventive mechanisms issued by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, article 8 of the Act on the National Mechanism for the Prevention of Torture and Cruel, Inhuman and Degrading Treatment<sup>2</sup> covers the manner in which Committee members are selected, and article 11 indicates the requirements that must be met in order to be a Committee member.

21. Regarding the “effective follow-up on and implementation of the recommendations made by the National Committee”, according to information from the National Prison Institute, in order to ensure compliance, the recommendations are transmitted to the various prisons and they must then submit a report on follow-up and/or implementation.

#### **Human rights defenders and other representatives of civil society who are at risk**

*Paragraph 44. The Committee urges the State party to: (a) Provide detailed information on the prosecution of those responsible for the death of Berta Cáceres; (b) Ensure that journalists, human rights defenders and other representatives of civil society are protected from acts of intimidation and violence to which they may be exposed because of their activities; (c) Ensure that all incidents involving threats or attacks directed at journalists, human rights defenders and members of civil society organizations are promptly and impartially investigated.*

22. With regard to subparagraph (a) “Provide detailed information on the prosecution of those responsible for the death of Berta Cáceres”, the situation is described below.

23. The case was opened on 3 March 2016 when the Public Prosecution Service requested the Circuit Court of La Esperanza, Intibucá department, to take evidence from a witness in advance of trial proceedings, along with photographic identification, and to grant protection for the witness (BCD-03-03-2016); the request was granted and a hearing for advance submission of evidence took place on 3 March 2016. In addition, on 6 March 2016 a hearing was held, also in advance of trial proceedings, to compare the testimony of witness Triple “A” and protected witness BCD-03-03-2016, at the Circuit Court of La Esperanza, Intibucá department. On 13 March 2016 the National Criminal Court received and granted a request for a warrant to enter and search the offices of the company Desarrollo Energético S.A.

24. On 1 May 2016, the Public Prosecution Service applied to the National Criminal Court for arrest warrants and search warrants against Mr. Douglas Geovanny Bustillo, Mr.

<sup>2</sup> Act on the National Mechanism for the Prevention of Torture and Cruel, Inhuman and Degrading Treatment, Decree No. 136-2008 dated 5 December 2008.

Sergio Ramón Hernández Orellana, Mr. Mariano Díaz Chávez, Mr. Henry Javier Hernández and Mr. Edilson Atilio Duarte Meza, for the murder of Ms. Bertha Isabel Cáceres Flores and the attempted murder of protected witness ABC-03-03-2016, which were duly issued. On 2 May 2016, the court took statements from the suspected perpetrators of those offences and ordered them to be taken into custody in accordance with the law; the men appeared at a preliminary hearing that ended on 8 May 2016, at which the accused were formally indicted and remanded in pretrial detention in Támara National Prison as a precautionary measure.

25. On 16 May 2016, the court took a statement from Mr. Emerson Eusebio Duarte Meza, a suspect in the murder of Ms. Bertha Isabel Cáceres Flores and the attempted murder of protected witness ABC-03-03-2016, and remanded him in custody as a preventive measure in accordance with the law. Mr. Emerson Eusebio Duarte Meza appeared at a preliminary hearing on 20 May 2016 on the same charges and was formally indicted and remanded in pretrial detention in Támara National Prison as a preventive measure.

26. On 7 September 2016, the Public Prosecution Service presented a further request for arrest and search warrants against Mr. Elvin Heriberto Rápalo Orellana for the same offences, and these were issued. On 9 September 2016 the accused's statement was taken by the court and he was remanded in custody as a preventive measure in accordance with the law. At a preliminary hearing on 13 September 2016 he was formally indicted and remanded in pretrial detention as a preventive measure. On 18 October 2016, the Criminal Appeal Court found an appeal inadmissible and confirmed the ruling handed down in the preliminary hearing.

27. On 16 January 2017 the court took a statement from Mr. Henry Javier Hernández Rodríguez, charged with the same offences, and ordered him to be taken into custody as a preventive measure in accordance with the law; and on 19 January 2017 a preliminary hearing took place at which he was indicted and remanded in pretrial detention as a preventive measure. On 7 February 2017 the Public Prosecution Service presented a further request for an arrest warrant for Mr. Oscar Aroldo Torres Velásquez for the same offences, and this was granted. On 9 February 2017 the court took a statement from Mr. Torres Velásquez and remanded him in custody as a preventive measure in accordance with the law; and on 14 February 2017 a preliminary hearing was held at which he was indicted and placed in pretrial detention as a preventive measure.

28. On 19 April 2017, at a preliminary hearing, the Public Prosecution formally charged Mr. Douglas Geovanny Bustillo, Mr. Sergio Ramón Rodríguez, Mr. Mariano Díaz Chávez, Mr. Elvin Heriberto Rápalo, Mr. Edilson Atilio Duarte and Mr. Emerson Duarte Meza with the same offences. On 7 June 2017, in a continuation of the preliminary hearing, the defendants Mr. Douglas Geovanny Bustillo, Mr. Sergio Ramón Rodríguez, Mr. Mariano Díaz Chávez and Mr. Elvin Heriberto Rápalo answered the charges. In addition, on 12 June 2017, the Court ordered proceedings to begin against Mr. Douglas Geovanny Bustillo, Mr. Sergio Ramón Rodríguez, Mr. Mariano Díaz Chávez and Mr. Elvin Heriberto Rápalo, for the above offences, referring the case to the trial court and flagging the case against Mr. Henry Javier Hernández, Mr. Edilson Atilio Duarte, Mr. Emerson Duarte Meza and Mr. Oscar Aroldo Torres for separate trial, pending the preliminary hearing.

29. Regarding subparagraph (b), to “ensure that journalists, human rights defenders and other representatives of civil society are protected from acts of intimidation and violence to which they may be exposed because of their activities”, the Government has taken protection measures in order to allow persons covered by the Act for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials to work in freedom and safety, including the following:

(a) Action by the National Protection Council to raise general public awareness of the work done by human rights defenders, with national and local authorities on six occasions publicly recognizing their work;

(b) Strengthening of the Prevention and Contextual Analysis Unit of the Directorate-General of the Protection System;

(c) Training on the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) and other international instruments, for local authorities in Intibucá and Santa Bárbara departments, in cooperation with the Office of the United Nations High Commissioner for Human Rights in Honduras;

(d) Training workshops for the public officials responsible for compliance with the Act for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials;

(e) Introduction of a plan to disseminate the Act for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Officials;

(f) Implementation of technical protection plans (infrastructure and technology);

(g) Alert button provided to protected persons that, when pressed, sends data to an application that records the place and time of an incident;

(h) Development of an early warning system;

(i) Budget allocation for strengthening protection measures;

(j) Signing of a cooperation agreement with a care institution to provide comprehensive support to victims of violence;

(k) Identification of the group covered by the Directorate-General of the Protection System;

(l) Drafting of regulations governing the National Protection Council (subject to approval at the Council's next session on 17 August 2017);

(m) Start of work on a database that will contain, for example, a register of cases and information accessible to the public.

30. Finally, with regard to subparagraph (c), in order to “ensure that all incidents involving threats or attacks directed at journalists, human rights defenders and members of civil society organizations are promptly and impartially investigated”, the Public Prosecution Service has created the Human Rights Defenders Support Unit, in accordance with the Special Regulations on the Organization and Operation of the Directorate-General of the Prosecutor-General's Office (Official Gazette No. 34.02, 9 May 2016), to investigate crimes against human rights defenders, and has taken the following action:

(a) Two court officers have been assigned to the Human Rights Defenders Unit and a further such assignment is expected;

(b) Training has been provided to the staff of the Human Rights Defenders Unit on constitutional law at the National Autonomous University of Honduras; on analysis of forensic evidence and human rights violations by the Inter-American Institute of Human Rights; and on risk analysis by the Ministry of Human Rights, Justice, Governance and Decentralization;

(c) Once an investigation has begun, the prosecutors assigned to the Human Rights Defenders Unit remain in contact with the human rights defender who is the victim in the case;

(d) A radio, television and press campaign was run to raise public awareness of the work of the Office of the Special Prosecutor for Human Rights, drawing special attention to the Human Rights Defenders Support Unit;

(e) Publicity materials have been prepared by the Office of the Special Prosecutor for Human Rights with the support of the Human Rights Support Programme, such as pamphlets, posters and banners;

(f) The Directorate-General of Prosecutions and the Directorate of the Office of the Special Prosecutor for Human Rights have asked the Director General of the National Police to create a unit to investigate threats against human rights defenders within the Police Investigation Directorate.

31. In the framework of the proposed agreement on cooperation against crime between the Governments of Georgia and Honduras, the Attorney General asked the Office of the Special Prosecutor for Human Rights to comment on the inclusion of crimes against human rights defenders in order to ensure cooperation in the investigation and prosecution of such cases.

32. The Public Prosecution Service, with the support of the embassy of the United States of America, is looking into strategic courses of action in order to develop a protocol on the investigation of crimes against human rights defenders.

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