

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/HND/CO/1)

HONDURAS

(...)

C. Principal subjects concerns and recommendations

(...)

Fundamental safeguards

9. The Committee notes that the new Code of Criminal Procedure contains fundamental safeguards, including the right not to be subjected to ill-treatment or torture during detention. While noting a certain increase in the number of public defenders and the draft legislation to enhance their independence, the Committee is concerned that in light of the high percentage of recourse to public defenders, their number may be inadequate. The Committee is further concerned that allegations of ill-treatment and torture are investigated by the police itself and that an independent and external oversight mechanism for alleged unlawful acts committed by the police does not exist. The Committee is also concerned that, in practice, law enforcement officials, in particular the preventive police, often do not respect fundamental legal safeguards, such as to promptly inform the detainee of the reason for arrest, the right of a detainee to access a lawyer and to access an examination by an independent doctor within 24 hours of detention and the right to contact his or her family. The Committee is also concerned at the obstacles experienced by medical professionals to exercise their duties, such as limited access to places of detention for reporting on possible torture and other cruel and inhuman or degrading treatment or punishment, including the application of internationally accepted guidelines for such reporting (arts. 2 and 11).

The State party should ensure that an independent oversight mechanism for alleged unlawful acts committed by all agents of the State is set up. The State party should ensure that, in practice, all detainees are immediately informed of the reason for arrest, that the right to access a lawyer and to contact a family member is respected and that all detainees undergo a medical examination within 24 hours of their detention. The State party should also take urgent measures to eliminate all obstacles experienced by its medical professionals in the exercise of their duties and to establish adequate guidelines for its medical professionals to report systematically on findings of torture and other cruel and inhuman or degrading treatment or punishment.

(...)

Enforced or involuntary disappearances

11. While welcoming the State party's invitation of the Working Group on Enforced or Involuntary Disappearances in 2007, the Committee expresses concern at the absence of full reparation for victims and families of enforced or involuntary disappearances under former authoritarian governments before 1982 and, in general, at insufficient investigation, punishment and compensation for these crimes. It further regrets that the State party has not established a truth and reconciliation commission. Moreover, the Committee expresses concern at reports of new cases of enforced and involuntary disappearances, including of children. The Committee further regrets that the Honduran Criminal Code does not contain a specific provision punishing the crime of enforced or involuntary disappearance (arts. 2, 4 and 16).

The Committee reiterates the recommendations by the Working Group on Enforced or Involuntary Disappearances and is concerned that they have not been fully implemented. The Committee urges the State party to take swift measures to ensure progress in the search of the missing persons, to establish a comprehensive programme of reparation and compensation for the victims and their families, to prevent new instances of enforced or involuntary disappearance and to amend the Honduran Criminal Code in line with the Convention for the Protection of All Persons from Enforced Disappearance.

(...)

Trafficking in persons

13. The Committee recognizes the efforts made by the State party to address trafficking in women and children, such as the prohibition of trafficking for commercial sexual exploitation in the Criminal Code and in the Anti-Trafficking Act. However, the Committee is concerned about persistent reports of internal and cross-border trafficking in women and children for both sexual and other exploitative purposes and it regrets that the legal provisions do not cover trafficking for reasons other than sexual purposes and that officials suspected of trafficking activities are not properly investigated (arts. 2, 10 and 16).

The State party should ensure that offenders are prosecuted and punished for the crime of trafficking in persons, and amend the Criminal Code to include all exploitative purposes of trafficking. The State party should continue to conduct nationwide awareness-raising campaigns, provide adequate programmes of assistance, recovery and reintegration for victims of trafficking and conduct training for law enforcement officials, migration officials and border police on the causes, consequences and incidence of trafficking and other forms of exploitation. The Committee further recommends that the State party increase its efforts to seek international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking.

Pretrial detention

14. While noting the progress made by the State party since the adoption of the new Code of Criminal Procedure in abolishing the obligatory pretrial detention and

establishing the “*juez de ejecución*”, whose mandate is to monitor the legality of remand detention, the Committee is very concerned at reports of frequent ill-treatment and torture, excessive use of force on arrest, as well as acts of extortion by law enforcement officials and at the persistent high numbers of detainees, both children and adults, in prolonged pretrial detention. It further expresses concern at the various forms of derogations from the general rule for the duration of pretrial detention. The Committee regrets the lack of use, in practice, of alternatives to imprisonment (arts. 2, 11 and 16).

The State party should take effective measures to send a clear and unambiguous message to all levels of the law enforcement hierarchy that torture, ill-treatment, excessive use of force and extortion are unacceptable, and ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duties. The State party should further take appropriate measures to increase the number of “*jueces de ejecución*”, to further reduce the duration of remand detention and derogations thereof, as well as detention before charges are brought. The Committee also urges the State party to implement alternatives to deprivation of liberty, including probation, mediation, community service or suspended sentences.

(...)

Persons with mental impairment or illnesses deprived of their liberty

18. The Committee notes with concern that only two detention centres are equipped with hospitals, which, however, do not have the capacity to tend to persons with mental impairment or illnesses. It further regrets the absence of an effective system of referral to specialists, as well as a policy to provide care in the civilian system (arts. 11 and 16).

The State party should enhance health services in places of detention to include services for persons with mental impairment or illnesses deprived of their liberty. It further recommends that the State party establish an effective and functioning system for referrals to mainstream health-care institutions or professionals.

“Unlawful associations”

19. The Committee notes discussions in the State party on changing the provision on “unlawful associations” in article 332 of the Criminal Code. It is however concerned that a suspected member of an “unlawful association” can be arrested without an arrest warrant and that his/her detention on remand is mandatory. It is further concerned at the repressive social policy in combating “unlawful associations”, or “*maras*” or “*pandillas*”, which does not adequately consider the root causes of the phenomenon and may criminalize children and young people on the sole ground of their appearance (arts. 11 and 16).

The State party should revise article 332 of its Criminal Code and ensure that legal safeguards are provided without discrimination to all persons under arrest or detention. It further recommends that the State party undertake steps to monitor and document the phenomenon of “unlawful

associations” with a view to revealing root causes and designing appropriate prevention strategies.

(...)

31. The Committee requests the State party to provide, within one year, information on its response to the Committee’s recommendations contained in paragraphs 9, 11, 13, 14, 18 and 19 above.

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