



Series on Safeguards to Prevent Torture in Police Custody in Latin America

SAFEGUARDS

1. Right to notify third parties of police custody
2. Right to access a lawyer
3. Right to an independent medical examination upon request
4. Right to information about rights

The series is available in English and Spanish.

Introduction

Detainees are at a particular high risk of suffering abuses during the early stages of police custody, which constitutes a situation of heightened vulnerability, and when authorities are under the most pressure to extract information. A recent empirical study commissioned by the Association for the Prevention of Torture (APT), [Does Torture Prevention Work?](#), found that one of the most effective ways of preventing torture is to ensure that all persons in custody have proper access to legal and procedural safeguards within the first moments of custody.¹

The study demonstrated that torture prevention works, and that implementing safeguards during detention has the greatest impact on reducing the incidence of torture, followed by investigations, prosecutions, and independent monitoring. Safeguards such as notifying family members or other third parties about the arrest and providing prompt access to a lawyer are the most effective means of reducing the risk of torture, followed by access to independent medical examinations.

The present series, *“Safeguards to Prevent Torture in Police Custody in Latin America,”* is intended to compile information on the status of key safeguards in law and practice in various Latin American jurisdictions. It further aims to provide an analysis of, and identify good practices and effective measures for guaranteeing, their practical implementation. The series comprises of papers on the three safeguards identified as most significant for torture prevention, namely: the right to notify third parties of police custody; the right to access a lawyer, and the right to an independent medical examination upon request.

Additionally, information on the right of detainees to receive information about their rights, a key safeguard that ensures the effective implementation of the others, is addressed as a fourth paper.

¹ For the purposes of the series, “custody” is understood to span from the moment of the suspect’s apprehension to the time he or she is brought before a judge or released.

Who is the intended audience?

The series is addressed primarily, but not exclusively, to National and Local Mechanisms for the Prevention of Torture (NPM and LPM), to assist them in their mandate of gathering first-hand information from detainees and authorities and monitoring the implementation of safeguards, and in offering concrete solutions to ensure that safeguards are implemented. The series would also be useful for other groups, such as state institutions and public authorities that have a duty to facilitate the implementation of safeguards, and civil society groups working on detainees' rights and criminal justice issues.

How was the information gathered?

The information in the series was collected by means of a questionnaire, which sought information on relevant legislation, detention practices, and the implementation of safeguards in practice. The respondents comprised 16 institutions and National and Local Mechanisms for the Prevention of Torture (NPMs and LPMs) throughout Latin America.

Information was also obtained from discussions held during a workshop for 12 NPMs and LPMs, in November 2017. A comparative analysis of national legislation, and a compilation of the international standards in key human rights treaties at the universal and Inter-American levels was also carried out. Other important sources of information were the reports of the visits of the United Nations Subcommittee on Prevention of Torture (SPT) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

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CONTENTS

The series is made up of four papers covering individual safeguards. Each document:

- Sets out the key elements of the safeguard and its relevance for the prevention of torture and ill-treatment
- Compiles up-to-date standards at the international, regional, and national levels
- Illustrates and reflects on implementation practices across different jurisdictions
- Addresses implementation challenges and provides examples for practical implementation
- Examines specific requirements for persons in situation of vulnerability

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