

## SUBMISSION TO THE COMMITTEE AGAINST TORTURE (CAT)

### List of Issues Prior to reporting: Brazil Third Periodic Review

January 16, 2026

#### About the submitting organizations and institutions

The **Institute for the Defence for the Right to a Defence (IDDD)**<sup>1</sup> and the **Association for the Prevention of Torture (APT)**<sup>2</sup> are civil society organizations working to ensure the protection of individual rights within the criminal justice system. Both organizations have a long-standing and recognized engagement with custody hearings in Brazil, monitoring their implementation and advocating for their strengthening as a safeguard against arbitrary detention and against torture and other cruel, inhuman or degrading treatment.

The **National Mechanism for the Prevention and Combat of Torture (MNPCT)**, established by Law No. 12,847 of 12 August 2013, is a body mandated to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment. The Mechanism is composed of independent experts, who are granted access to places of deprivation of liberty, including detention centers, penal institutions, psychiatric hospitals, shelters for older persons, juvenile justice facilities, and military disciplinary detention centers.

This submission draws on data from the report produced by IDDD in partnership with APT, entitled “Direito sob Custódia”, published in 2025. The report is based on the monitoring of 1,206 custody hearings conducted in 10 localities across 6 Brazilian states<sup>3</sup>.

#### 1. Fundamental legal safeguards:

In 2023, the Committee against Torture (CAT) expressed concern regarding the use of videoconference in custody hearings<sup>4</sup> in Brazil and recommended that the State party immediately

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<sup>1</sup> The IDDD (Instituto de Defesa do Direito de Defesa) is a Brazilian civil society organization whose mission, since 2000, has been to advocate for a more democratic justice system. Through its work, IDDD addresses structural inequalities and human rights violations that underpin the Brazilian justice system. The organization carries out its activities through the provision of free legal assistance, advocacy, strategic litigation, legal empowerment, education, and communication.

<sup>2</sup> The Association for the Prevention of Torture (APT) is a non-governmental organization founded in 1977 and based in Geneva, Switzerland, working worldwide to prevent torture and other forms of ill-treatment. Over this period, APT has played a key role in the development of universal and regional standards and in the establishment of preventive mechanisms, particularly those based on the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In Brazil, APT has worked to support the implementation and strengthening of Torture Prevention Mechanisms and to promote the alignment of justice system actors’ practices with international human rights standards.

<sup>3</sup> Available at: <https://iddd.org.br/2025/12/15/direito-sob-custodia-uma-decada-de-audiencias-de-custodia-e-o-futuro-da-politica-publica-de-controle-da-prisao-e-prevencao-da-tortura/>. Accessed on 08 Jan. 2026.

<sup>4</sup> In Brazil, custody hearings are mandatory judicial hearings held within 24 hours of arrest, during which the detained person must be presented before a judge. Their core purposes include the judicial review of the legality and necessity

resume in-person custody hearings, with the physical presence of the detained person before a judge and within a judicial setting, as an essential safeguard ([CAT/C/BRA/CO/2, 2023, par. 12\(c\)](#)).

This recommendation is strongly supported by the empirical evidence produced by IDDD and APT. The [research](#) shows that: **(i)** the physical presence of the judge alongside the detained person was associated with a 17.5% increase in rights-protective judicial conduct when compared to videoconference hearings; and **(ii)** judicial responses to allegations of violence were 25.3% more effective when the judge was physically present with the detained person.

Nonetheless, data from **Observa Custódia** - a monitoring dashboard managed by the APT that aggregates nationwide information from public defenders' offices<sup>5</sup>, indicates that in 2024 only 26% of custody units conducted hearings exclusively in-person; in 34% of cases hearings were held by videoconference; and in 40% of cases hearings alternated between in-person and videoconference formats. In parallel, and contrary to the CAT's recommendation, Bill No. 5,582/2025<sup>6</sup> - currently at an advanced stage of legislative consideration - provides that custody hearings should be conducted preferably by videoconference.

Suggested question: Provide, disaggregated by federal unit, the proportion of custody hearings conducted in-person and by videoconference in 2025, as well as detailed information on the concrete measures adopted to implement the CAT's recommendation to ensure the physical presentation of detained persons before a judge in a judicial setting ([CAT/C/BRA/CO/2, 2023, para. 12\(c\)](#)).

## **2. Allegations of widespread torture and ill-treatment and Impunity for acts of torture and ill-treatment;**

The [research conducted by IDDD and APT](#) shows significant gaps between allegations of human rights violations raised in custody hearings and their formal recording and investigation. These shortcomings undermine the preventive function of custody hearings and contribute to impunity.

**Data discrepancy:** according to IDDD and APT's research, 19.3% of detained persons reported police violence during custody hearings. By contrast, official data provided by the State

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of detention, the assessment of possible ill-treatment or torture, and the verification of access to legal counsel and other fundamental procedural safeguards. Custody hearings are regulated by the Brazilian Code of Criminal Procedure (Articles 3º-B, 310, 310-A and 287) and by National Council of Justice Resolution No. 213/2015.

<sup>5</sup> Available at: <https://www.observacustodia.com/>. Accessed on 08 Jan. 2026

<sup>6</sup> Available at: <https://www25.senado.leg.br/web/atividade/materias/-/materia/171725>. Accessed on 08 Jan. 2026.

party indicate that only 5.5% of hearings contained allegations of violence and/or ill-treatment<sup>7</sup>. This discrepancy<sup>8</sup> suggests underreporting and/or methodological inconsistencies that warrant clarification, a concern that has already been acknowledged by the State party itself in previous official assessments of custody hearings<sup>9</sup>.

**Gaps in documentation and referral:** according to the IDDD and APT research, 25.8% of allegations of violence or ill-treatment were not recorded in the official minutes of the custody hearing (official hearing record); among Black detainees, the rate of non-documentation reached 31.8%. Furthermore, when allegations were made, 25.9% of cases resulted in no judicial referral for investigation. Once again, racial disparities were evident: among White detainees who reported violence, no follow-up action was taken in 17.8% of cases, whereas this figure rose to 27.9% among Black detainees. This pattern is further reinforced by institutional inertia, as both the prosecution and the defence requested investigations in only around 10% of cases in which police violence was reported.

In its information provided to the CAT, the [State party reported](#) the publication by the National Council of Justice (“Conselho Nacional de Justiça” - CNJ) of the Manual for the Prevention and Combat of Torture and Ill-treatment in Custody Hearings. However, the [CAT’s Follow-up Letter](#) underscores a recurring concern in Brazil’s reporting: the adoption of laws, manuals and training initiatives without sufficient information regarding their effectiveness. Custody hearings require measurable mechanisms to qualify judicial conduct and to ensure proper recording and referral of allegations of violence.

#### Suggested questions:

(i) What methodology is used to collect and produce the data on allegations of torture and/or ill-treatment in custody hearings recorded in the National Database of Penal Measures and Imprisonment (BNMP)<sup>10</sup>? How does the State party explain the persistence of a statistical discrepancy between BNMP data and findings produced through independent monitoring, given

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<sup>7</sup> Data collected on 08 January 2026 from the National Database of Penal Measures and Imprisonment (BNMP) via the following link: <https://paineisanalytics.cnj.jus.br/single/?appid=33a9fb80-6930-4218-a54d-3abdf7789941&sheet=ab7d2caf-1d7a-4ec4-99a3-24d554ef24ab>. Accessed on 08 Jan. 2026.

<sup>8</sup> Public Defender Offices have also reported higher rates of alleged police violence in the context of custody hearings. For instance, a study by the Rio de Janeiro Public Defender’s Office found that 31% of interviewees reported having suffered violence. Available at: <https://g1.globo.com/rj/rio-de-janeiro/noticia/2021/12/09/denuncias-de-agressao-a-presos-em-flagrante-volta-a-crescer-apos-retorno-das-audiencias-de-custodia-no-rj-aponta-estudo.ghtml>. Accessed on 14 Jan. 2026. Similarly, a report by the Public Defender’s Office of the Federal District for the first half of 2025 recorded allegations of police violence in 14.3% of cases. Available at: <https://www.defensoria.df.gov.br/relatorio-da-dpdf-revela-vulnerabilidades-e-seletividade-contra-populacao-trans-no-df/>. Accessed on 14 Jan. 2026.

<sup>9</sup> In its 2021 report “Custody Hearings: Six Years”, the National Council of Justice (CNJ) identified significantly lower rates of reported violence and referrals for investigation in official databases when compared to findings produced by independent organizations, explicitly highlighting the problem of underreporting of allegations of torture and ill-treatment. Report available at: <https://www.cnj.jus.br/wp-content/uploads/2021/09/relatorio-6-anos-audiencia-custodia.pdf>. Accessed on 14 Jan. 2026.

<sup>10</sup> A system in which information on custody hearings is made available by the State party.

that the CNJ, in its official report “*Custody Hearings: Six Years*” (2021), explicitly acknowledged the problem of underreporting of allegations of torture and ill-treatment in custody hearings when comparing official and independent data?

(ii) How does the State party assess the effectiveness of training activities, guidance documents and resolutions issued by the CNJ in relation to the conduct of custody hearings? Are there mechanisms in place to ensure implementation of CNJ guidance and to measure compliance by judicial actors?

### 3. National System to Prevent and Combat Torture

In its 2023 concluding observations on Brazil, the CAT expressed serious concern regarding the insufficient number of local preventive mechanisms and the absence of an “independent, effective and well-resourced network of preventive mechanisms across all the jurisdictions of the State party”.<sup>11</sup> Consequently, the Committee urged Brazil to “take all the measures necessary to promptly establish a network of preventive mechanisms in all states, and ensure that each of the bodies in the network has the resources and functional and operational independence necessary to fulfil its preventive mandate in accordance with the Optional Protocol to the Convention.”<sup>12</sup>

Furthermore, the Committee identified the national preventive system as a priority issue for its follow-up procedure. The State party was specifically requested to provide updated information on the implementation of these recommendations by May 2024.

#### 3.1. National Preventive Mechanism

Since the change of government in 2023, the NPM has experienced significant improvements in its operational and budgetary conditions. The federal government has allocated necessary resources, enabling the NPM to develop its methodology, work plans, and strategies with functional independence and minimal interference from Executive authorities.

However, the State party has failed to ensure the full composition of this national oversight body. Pursuant to Article 8, § 1º of Law 12.847/2013, the NPM must be comprised of 11 experts. Since at least 2022, the NPM has lacked its full team of specialists. According to its 2023 Annual Report, the body operated with only nine experts; as of 2025, that number has dropped to six, nearly half of its legally mandated composition. This represents a four-year delay by the State in guaranteeing the NPM’s full membership.

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<sup>11</sup> United Nations, Committee against Torture, Concluding observations on the second periodic report of Brazil, CAT/C/BRA/CO/2, 12 June 2023, § 33.

<sup>12</sup> Id. § 34 (a)

While we acknowledge the complexity of the selection process - jointly managed by the Ministry of Human Rights and Citizenship and the National Committee for the Prevention and Combat of Torture (CNPCT), an interinstitutional body comprised of civil society organizations and governmental agencies - a delay exceeding four years is neither reasonable nor justifiable. In its information provided to the CAT on August 14th 2024, the [State party reported](#) “preparing a call for applications to select new experts for the MNPCT, with the goal of completing the body’s staff.”<sup>13</sup> Over a year and a half later, this call has still not been issued or published.

The current level of understaffing is unprecedented and alarming. Given that the selection process has been pending since 2022 and that several of the current experts will conclude their mandates in 2027, there is a critical risk that the NPM will reach a state of institutional paralysis, unable to fulfill its minimum statutory quorum for inspections and reporting. This situation significantly undermines the NPM's preventive impact and constitutes a breach of the State party's obligations under Article 18 of the Optional Protocol (OPCAT), which requires States to guarantee the necessary resources and personnel for the effective functioning of the national preventive mechanism.

Suggested questions:

- (i) What measures are being taken to launch the selection process to fill in the five current vacancies within the NPM? What is the expected timeline for the selection and official appointment of these new members?
- (ii) What measures are being assessed by the State party to prevent further delays in the selection and appointment cycles and to secure a more stable and predictable renewal of the NPM’s membership?

**3.2. Network of preventive mechanisms across all the jurisdictions of the State party**

As noted in the Committee’s previous concluding observations, Brazil's National System to Prevent and Combat Torture (SNPCT) relies on a decentralized network of OPCAT-compliant bodies. While the number of operational Local Preventive Mechanisms (LPMs) has increased

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<sup>13</sup> United Nations, Committee against Torture, Information received from Brazil on follow-up to the concluding observations on its second periodic report, CAT/C/BRA/FCO/2, 11 September 2024, § 44.

since 2023 - currently totaling nine (Rio de Janeiro, Paraíba, Rondônia, Acre, Sergipe, Espírito Santo, Maranhão, Pernambuco<sup>14</sup> and Tocantins<sup>15</sup>) - significant gaps remain.

Progress over the last three years is largely attributable to advocacy efforts by civil society and the National Preventive Mechanism and litigation initiated by the Federal Prosecution Chamber for Citizens' Rights (Procuradoria Federal dos Direitos do Cidadão/MPF - PFDC). The PFDC has filed lawsuits in at least four states<sup>16</sup> to enforce compliance with Brazil's international obligations set out at the Optional Protocol. Despite these efforts, 19 states have yet to establish LPMs, representing a substantial institutional deficit.

Nevertheless, to date, the State party has failed to implement a comprehensive national program to ensure a standardized network of mechanisms across all jurisdictions.

Domestic legislation clearly mandates such action: Article 13 of Law 12.847/2013 and Articles 18–20 of Decree 8.154/2013 stipulate that the Ministry of Human Rights and Citizenship (MDHC) shall promote the creation of LPMs and provide for the voluntary transfer of federal funds to support these efforts. Nevertheless, these provisions remain largely unimplemented. There is currently no national public policy or dedicated budget line specifically allocated to foster the creation of LPMs. This can also be drawn from the State's 2024 report to the CAT which does not provide any concrete examples of measures being taken by the State to strengthen the network for the prevention and combat of torture in the states.<sup>17</sup> Although there is a department within the Ministry of Human Rights and Citizenship in charge of developing torture prevention initiatives, the State has failed to adopt a programme or strategic plan to foster the creation of LPMs at State level in compliance with the Optional Protocol.

A very welcomed step was the incorporation of the creation of State level mechanisms in the recently adopted national plan aimed at addressing prison overcrowding, poor conditions in detention centers, and widespread violations of fundamental rights, *Plano Pena Justa*.<sup>18</sup> The Plan

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<sup>14</sup> Although the members of the LPM of Pernambuco were appointed, we do not have any information about their functioning and consider it to be not OPCAT-compliant. Following the disbanding of the body by the state government in 2023, new members were recently appointed to resume its activities. However, the selection process lacked transparency and failed to ensure the participation of civil society. The new members were unilaterally appointed by the government, which is inconsistent with Articles 18.1, 18.2, and 18.4 of the Optional Protocol. This failure to follow a participatory selection process severely undermines the functional independence required for the oversight body to effectively fulfill its mandate.

<sup>15</sup> The Tocantins LPM is the newest mechanism established in the country. Created by State Law 4.047/2022, its operational budget was successfully secured in 2025. As of the drafting of this document, the appointment of its seven members is underway, and the mechanism is expected to be fully operational by March 2026.

<sup>16</sup> In the States of São Paulo, Sergipe, Amazonas and Bahia.

<sup>17</sup> Committee against Torture, Information received from Brazil on follow-up to the concluding observations on its second periodic report, § § 39-44.

<sup>18</sup> The *Plano Pena Justa* is a national strategic plan designed to address the "Unconstitutional State of Affairs" in Brazil's prison system, as mandated by the Supreme Court in ADPF 347. Developed through a partnership between the

establishes that States shall adopt measures to prevent and combat torture and other ill-treatment, including by creating and implementing, in all states of the country, mechanisms to prevent torture. However, absent a well-resourced national policy or dedicated program to operationalize this network, these provisions shall again remain aspirational rather than becoming a reality.

Suggested questions:

- (i) What concrete measures are being taken by the State party to establish a functional network of preventive mechanisms in all 26 states and the Federal District, and ensure that each of the bodies in the network has the resources and functional and operational independence necessary to fulfil its preventive mandate in accordance with the OPCAT?
- (ii) Has the State party allocated a specific budget or established a federal funding program to support the implementation and maintenance of LPMs at the state level, as foreseen by Article 13 of Law 12.847/2013 and Articles 18, 19, and 20 of Decree 8.154/2013?

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**Association for the Prevention of Torture - APT**

**Mecanismo Nacional de Prevenção e Combate à Tortura**

**Instituto de Defesa do Direito de Defesa – IDDD**

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Ministry of Justice and the CNJ, it establishes a set of goals to reduce prison overcrowding and improve detention conditions.