Scrutinizing the prison during a pandemic and beyond: Oversight from a distance in the Philippines

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Abstract

This article presents how DIGNITY and its partners in the Philippines applied adaptive and creative approaches to prison oversight in light of restrictions and challenges imposed by the COVID-19 pandemic. Before the start of the pandemic, conducting effective prison oversight and engaging in constructive dialogue with prison authorities seemed highly dependent on monitors being physically present in the field. When pandemic-related restrictions were put in place, oversight bodies were unable to conduct on-site visits. This was a major challenge, especially at a time when the risk of human rights violations in prisons was heightened due to the efforts by the authorities to manage the pandemic.

Questions around how to continue to play an oversight role while the prison itself is 'out of sight' and how to continue serving a torture preventive mandate became central. The basic principles of do no harm and confidentiality needed to be respected in a totally new operational context for oversight bodies and prisons.

In this article, the authors unpack how DIGNITY and its partners in the Philippines reflected, redesigned and reframed oversight methodologies to meet these challenges. New working modalities and a creative approach to preventive oversight, namely 'remote monitoring', were developed and applied. Although the remote monitoring approach was developed specifically for the Philippines, it may hold considerable potential and resonance in other contexts where organizations are denied access to prisons temporarily or permanently. Such new ways of connecting with the field *from a distance* may prove to provide new insights into the experience of imprisonment and new avenues for torture prevention to be explored. In the longer term, the way oversight bodies adapt and respond to challenges will re-define and further establish their role as a credible and impartial actor in torture prevention.

DIGNITY[1] is a non-governmental, rights-oriented, knowledge-based, development organization based in Denmark but working globally, through partnerships with civil society organizations and state actors, to prevent torture and alleviate its effects.

The Commission on Human Rights (CHR)[2] is the Philippines' National Human Rights Institution based on the Philippines' Constitution. The CHR is mandated to conduct investigations on human rights violations against marginalized and vulnerable sectors of the society, involving civil and political rights. The CHR has a mandate, among others, to visit places of detention including prisons and submit reports with its findings and recommendations to improve the conditions and treatment of those detained. Although the Philippines has ratified the OPCAT since 2012, it has not yet established a National Preventive Mechanism (NPM) responsible for monitoring places of detention. In response, the CHR created a specialized monitoring team, with the participation of civil society representatives, to act as an interim NPM (CHR-INPM) until the NPM is fully operationalized through relevant legislation. The CHR-INPM consists of a group of 11 regular members and a Technical Working group (TWG) of 11 substitute members. The regular members are three CHR commissioners, two lawyer-experts on human rights and six other individual experts, including a member representing civil society. The 11 substitute members also reflect the same composition, with members from the CHR, lawyers, independent experts and a civil society representative, currently from DIGNITY's partner, BALAY.

BALAY[3] is a Philippine human rights civil society organization providing psychosocial services and rehabilitation to internally displaced persons and

survivors of torture and organized violence. Balay has been a long-standing partner of DIGNITY in the implementation of projects related to torture prevention and rehabilitation. Balay is also a member of the CHR-INPM (as part of the Technical Working Group) and participates in undertaking monitoring visits to places of detention.

DIGNITY and BALAY implemented an EU-funded project during 2018-2021 called 'Human-rights based approaches to torture prevention in the Philippines'. During the project, DIGNITY collaborated closely with the CHR-INPM in building the capacity of the monitoring team to perform their preventive visits in prisons in the Philippines, also during the pandemic.

Introduction

The COVID-19 pandemic posed a variety of challenges within prisons around the globe in terms of preventing and managing the spread of COVID-19 as well as managing positive cases. This was mainly due to their enclosed nature combined with systemic and chronic issues such as overcrowding, limited access to healthcare services for detainees and poor material conditions. Managing prisons in such conditions also raised significant dilemmas in terms of protecting prisoners' health and overall public health, while also respecting and fulfilling the rights of detained persons.[4] In some cases, measures taken to manage the pandemic heightened the risk of torture, ill-treatment and other human rights violations. For instance, suspension of family visits and group activities (recreational, educational) limited the opportunities for maintaining ties with the outside world and socializing within the prison. In addition, preventive isolation/quarantine along with the suspension of judicial hearings, presented a risk to the implementation of basic legal safeguards, fair trial standards and the prevention of arbitrary detention.

Soon after the start of the pandemic, several international bodies published guidance and statements related to the prevention and management of COVID-19 in prisons[56789] This guidance was addressed to prison authorities regarding their approach to the pandemic in light of human rights standards. It was obvious that the pandemic was not only causing a public health crisis. It was also amplifying the risks and vulnerabilities of those in detention regarding the respect of human rights. In such a situation, independent oversight was of utmost importance to scrutinize measures applied by the prison authorities and to be able to submit relevant recommendations to address and prevent the risk of torture, ill-treatment and other human rights violations.

DIGNITY has for many years worked in the field of independent oversight of places of detention, working with the 'preventive monitoring'

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4. For more on managing Covid- 19 in prisons, please see: DIGNITY (2020). *Global guidance and recommendations on how to prevent and manage COVID-19 in prisons.* DIGNITY Danish Institute against Torture, Denmark, 2020 https://www.dignity.dk/wp-content/uploads/GuidanceSynthesisCOVID-19Prisons_16.07.pdf (accessed 28 November 2022).
5. OHCHR, UNAIDS, UNODC, WHO (2021). *Joint statement on Covid-19 in prisons and other closed settings.* UN Office of the High Commissioner for Human Rights, May 2021 https://www.unodc.org/documents/Advocacy-Section/20200513_PS_covid-prisons_en.pdf (accessed 1 December 2022).
6. WHO/Europe (2020). WHO *Checklist to evaluate preparedness prevention and control of COVID-19 in prisons and other places of detention.* World Health Organization Regional Office for Europe, 2020 https://www.euro.who.int/__data/assets/pdf_file/0020/438041/Covid19-PrisonsChecklist-eng.pdf (accessed 28 November 2022). WHO/Europe (2021). *WHO Interim guidance. Preparedness, prevention and control of COVID-19 in prisons and other places of detention.* World Health Organization Regional Office for Europe, Denmark, February 2021 https://apps.who.int/iris/bitstream/handle/10665/339830/WHO-EURO-2021-1405-41155-57257-eng.pdf?sequence=1&isAllowed=y (accessed 28 November 2022).
7. SPT (2020). *Advice of the Subcommittee on Prevention of Torture to States Parties and National Preventive Mechanisms relating to the Coronavirus Pandemic (adopted on 25th March 2020).* Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2020. https://www.ohchr.org/sites/default/files/Documents/HRBodies/OPCAT/AdviceStatePartiesCoronavirusPandemic2020.pdf (accessed 28 November 2022).
8. OSCE/ODIHR and APT (2020). *OSCE and APT Guidance: Monitoring Places of Detention through the COVID-19 Pandemic.* OSCE Office for Democratic Institutions and Human Rights (ODIHR) and Association for the Prevention of Torture, Poland, 2020. https://www.apt.ch/sites/default/files/publications/Guidance%20note_final%20version_web.pdf (accessed 28 November 2022).
9. CPT (2020). *CPT Statement of principles relating to the treatment of persons deprived of their liberty in the context of the COVID-19 pandemic.* European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Council of Europe, 20 March 2020. https://rm.coe.int/16809cfa4b (accessed 28 November 2022).

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approach based on the Optional Protocol to the UN Convention against Torture and Cruel, Inhuman and Degrading Treatment or Punishment. *Preventive monitoring* refers to a system of regular visits by an independent body to identify any risks or breaches of human rights, map possible causes and underlying conditions for such risks and breaches, and act proactively through submitting relevant recommendations and having a constructive dialogue on the implementation of recommended actions to prevent torture and ill-treatment. Through partnerships, DIGNITY has supported several organizations around the world to apply such a preventive monitoring approach to their visits in prisons and other detention facilities. Access to prisons for such monitoring visits is usually granted to National Human Rights Institutions, National Preventive Mechanisms[10] (NPMs) and, in some cases, also to Civil Society Organizations (CSOs).

The system of regular visits is an integral part of the preventive monitoring framework. Visits include access to all premises of the prison to observe the conditions and treatment, the power to conduct confidential interviews with detainees and staff, as well as the review of any records kept in the facility. Physical visits enable a monitor to observe and sense the conditions and treatment in a prison making use of all his or her senses, which can only be fully done when being physically present in a place. Visits also provide a unique opportunity to conduct confidential interviews with detainees and prison staff in person. These interviews often form the basis of trust-building relations between monitors, detainees and prison staff. Furthermore, the possibility of independent experts regularly visiting a prison is considered to have a deterrent and preventive effect in and of itself. This is based on the premise that the risk of violations is higher if places of detention remain closed to the outside world. The more open to independent scrutiny places of detention become, the less the risk of torture, ill-treatment and other human rights violations. Before the start of the pandemic, most oversight bodies relied almost exclusively on conducting such regular on-site visits to prisons and provided well-grounded findings and effective recommendations for improvements through their visit reports.

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Early in the pandemic, access to prisons by visitors — including monitoring bodies — was no longer possible. And in most countries, prisons remained mostly inaccessible for a long period of time. The restrictions on visits to prisons were applied in different ways and followed different timelines, depending on how the pandemic evolved in each country. In countries where the restrictions for the general population remained quite strict (for example through movement restrictions, curfew etc) or where there were high numbers of COVID-19 cases, monitoring bodies were not able to access prisons for a long time. In other countries, the easing of restrictions in general offered the opportunity for monitoring bodies to resume their visiting activities. During this time, detention staff were facing complex challenges and those deprived of liberty were facing amplified risks of torture and ill-treatment created by the restrictive measures related to the pandemic. But the prison was 'out of sight' for monitoring bodies, who were stripped from one of their most essential powers — the power to visit prisons and other detention settings. This was an unprecedented situation, especially for NPMs which normally enjoy unfiltered access based on their relevant legislation.

These troubling circumstances posed new challenges for monitoring bodies linked to questions around access and serving their preventive role. For monitoring bodies around the globe, the COVID-19 pandemic created a risk of paralysis and irrelevancy. If monitoring bodies were not able to get 'first-hand' information and observations by being inside the prison, how could they provide well-grounded findings and recommendations? And if they were not able to serve their purpose in a way that responded to the needs on the ground during a crisis that went far beyond a health crisis, then would their legitimacy, credibility and role not be questioned?

This situation raised a set of issues and fundamental questions that required reconfiguring what 'access' could mean in the COVID-19 context and what adaptations would be necessary to continue scrutinizing the prisons effectively from the *outside*. But it was not just about adaptations in the methodology relating to visits. It was also about maintaining the

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10. National Preventive Mechanisms (NPMs) are monitoring bodies established in accordance with the *Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.* United Nations Office of the High Commissioner on Human Rights, New York and Geneva, 2006 https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel (accessed 28 November 2022).

relations with those deprived of liberty and prison management/staff outside the usual visiting framework and ensuring that their voices were still being heard, even if 'accessed' remotely. This also required reconfiguring the spaces and the avenues for constructive interactions to ensure that monitoring bodies were receptive to the issues in prisons as they were evolving at the time, and that they continued to be perceived and positioned as a key stakeholder and an expert interlocutor throughout the pandemic, and beyond.[11]

In this article we, the authors, describe how DIGNITY was faced with such issues in its work in the Philippines and elaborate on the experiences of adaptation and innovation to respond to the challenge of scrutinizing prisons from the *outside*. We unpack this in four parts. The first part presents the impact of the pandemic on the work of DIGNITY and its partners in the Philippines. Then, we unfold the process of reflecting and adapting to the unprecedented situation created by the pandemic through describing the dilemmas and questions that DIGNITY and its partners had to respond to. In the third part, we present the chosen response — the remote monitoring framework — and its different elements, challenges and learnings. Lastly, we share our thoughts about the possible potential of the remote monitoring methodology as a complimentary approach to scrutinizing prisons, also beyond the pandemic.

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Challenges in our work in the Philippines during the pandemic

At the start of the pandemic, DIGNITY was working with Balay and the Commission on Human Rights (CHR) in implementing an EU-funded project on torture prevention. This project included focus on the provision of psychosocial support in prisons by Balay, and capacity-building activities for the newly formed interim NPM team within CHR (CHR-INPM) combined with regular prison monitoring visits and submitting reports. This work was to include continuous interactions on-site between Balay, CHR-INPM and the prison and jail authorities, as well as detainees.

The crisis, however, changed the conditions under which DIGNITY and its partners worked together. Each partner was affected in different ways.[12] For our partnerships in the Philippines, it meant that Balay was no longer able to offer support to prisoners, while the visits of the CHR-INPM were interrupted. No external visitors, including monitors, were allowed to enter prisons in the Philippines, and no one was able to predict for how long these restrictions would be in place.

This situation raised a set of challenges linked to crucial aspects of the preventive mandate of the CHR-INPM. As the CHR-INPM was not able to enter prisons, this meant that the monitoring team did not have access to detainees and to relevant records kept within the prison. There was also no way of observing the conditions and treatment on-site. Moreover, monitors had no avenues for engaging in person with prison staff and management, due to restrictions on movement and gatherings also in the public space. Not to mention that prison staff were extremely overwhelmed and overburdened with efforts to prevent and manage COVID-19 within their prisons. Therefore, the human and in-person interactions that were so central for gathering information and understanding the situation in prisons, as well as for being able to have a constructive dialogue with the prison authorities, were completely interrupted.

Nevertheless, the CHR remained a key actor in torture prevention and human rights monitoring more broadly in the Philippines. As one of the few independent institutions with a specific mandate to scrutinize prisons and submit relevant reports, the role of the CHR was crucial during the pandemic. Therefore, it was obvious that the CHR-INPM could not just stop conducting any type of scrutiny of prisons during the pandemic, waiting for access to be permitted again.

To continue delivering its preventive mandate, it was evident that the CHR-INPM needed a new

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11. For more on this see DIGNITY (2020) *Global guidance on preventive monitoring of places of detention during the Covid-19 pandemic- A practical tool,* by Lisa Michaelsen and Kalliopi Kambanella, DIGNITY Danish Institute against Torture, Denmark, 2020 https://www.dignity.dk/wp-content/uploads/GLOBAL-GUIDANCE-ON-PREVENTIVE-MONITORING-OF-PLACES-OF-DETENTION.pdf (accessed 5 December 2022)
12. Jefferson A, Caracciolo G, Kørner J and Nordberg N. Amplified vulnerabilities and reconfigured relations: Covid-19, torture prevention and human rights in the Global South. State Crime, 2021, Pluto Press. https://www.scienceopen.com/hosted-document?doi=10.13169/statecrime.10.1.0147

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approach and this approach had to be designed and implemented as quickly as possible to, on the one hand, respond to the emerging risks of violations of prisoners' rights, engendered by lack of visits, lack of (food and medicine) deliveries from the outside, prolonged detention due to delays in court proceedings, and, on the other hand, respond to the risk of worsening conditions and treatment due to lack of independent oversight. It also became apparent that what was at stake here was not only the ability of the CHR-INPM to deliver their preventive mandate, but in the longer term it was about retaining — and perhaps re-enforcing — its credibility and authority as an independent oversight body. This was the moment to show that the CHR-INPM could in fact be a valuable stakeholder offering independent and expert advice to the benefit of all involved: detainees, prison staff and prison management. This was crucial for the longer-term perspective of developing into a fully operational NPM.

Reflecting and adapting

If DIGNITY and the CHR-INPM were to meet these challenges we had to jointly reflect, redesign, and reframe the oversight methodology. Our initial reflections were focused on whether there was a way of accessing information and persons from the *outside*, while access to the facilities was still impossible. Our starting point was the general guidance provided by several international and regional bodies on how monitoring bodies should approach their preventive mandate during COVID-19. These bodies were calling for a continuation of monitoring activities while respecting necessary limitations in the methodology, including legitimate restrictions currently imposed on social contact and by practicing the 'do no harm' principle and weighing it with the potential harm of lack of visits and transparency. This was, of course, easier said than done. This guidance had to be further contextualized to meet the specificities of the Philippines and our partner's capacities, as well as the needs on the ground.

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It was clear that access to prisons for any kind of visit was not an option and it was assumed that this situation may continue to be the case for quite a long time, considering the high numbers of COVID-19 cases at that moment. At the same time, the CHR-INPM was determined to continue scrutinizing prisons throughout the pandemic and looked to DIGNITY for sparring and support.

DIGNITY is part of the Danish NPM, contributing with health-specific expertise in all monitoring visits. The Danish NPM, together with other oversight bodies globally, was going through similar challenges as the INPM in the Philippines. Therefore, the experiences of the Danish NPM and other oversight bodies were turned to for inspiration as to how oversight could continue in the Philippines, an approach highly appreciated by the CHR-INPM.

The Danish NPM was able to conduct some on-site thematic visits in the early stages of the pandemic but mostly conducted remote visits later. The remote visits followed a similar methodology as the on-site visits and the NPM members conducted interviews with the prison management, prisoners, and prison (health) staff through an online video platform. Prior to each remote monitoring visit, the Danish NPM requested data and other information from the prison authorities in an effort to scrutinize as much as possible the situation in the prisons and the COVID-19 specific measures that were being applied. Information obtained prior to the remote visits and information obtained during those 'virtual visits' were scrupulously triangulated.

Prior to the pandemic, DIGNITY had also worked with Civil Society Organizations (CSOs) that did not have the right to access prisons but still scrutinized them through gathering information from available sources outside prisons (for example families of detainees, ex-detainees, lawyers) and this experience was drawn on as well.

The main source of inspiration for the needed adjustments in the monitoring methodology, however, came from the methodology developed by Her Majesty's Inspectorate of Prisons for Scotland (HMIPS).[13]

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13. HMIPS (2020). *Independent prison monitoring - COVID-19 pandemic emergency remote monitoring framework.* HM Inspectorate of Prisons in Scotland, 2020. https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/news_attachments/HMIPS%20-%20Independent%20Prison%20Monitoring%20-%20Remote%20Monitoring%20Framework%20-%2024%20April%202020_0.pdf (accessed 28 November 2022).

Around April 2020, the HMIPS paused its visits and decided to move to a remote monitoring system, based on the assessment that the protection from the risk of infection and spread of COVID-19 through entering prisons prevailed over the purpose of conducting prison visits. The HMIPS remote monitoring framework had four main components: collecting data from the Prison Service on a weekly basis, collecting specific details from each establishment, developing projects to inform monitoring moving forward, maintaining motivation amongst monitors and reporting.

Inspired by all these developments in relation to monitoring prisons during the pandemic, the idea of scrutinizing the prisons *from a distance* started being discussed as a potential alternative to on-site visits in the Philippines. It was agreed by DIGNITY and the CHR-INPM to use the term 'remote monitoring', as in the HMIPS framework, as a concept capturing the practice of scrutinizing the prison without physical access to its premises, that is remotely, while having an official preventive monitoring mandate. Therefore, the remote monitoring framework that was to be designed had to still apply the preventive approach, meaning that it would be looking at risks and breaches of human rights with a view to preventing further deterioration, continuation, or repetition.

However, many issues had to be addressed and contextualized to the Philippines before such an approach could be implemented. First, how could the 'do no harm' principle be applied within a remote monitoring methodology? This included analyzing risks of reprisals during information gathering for anyone who was in contact with the CHR-INPM team, as well as contemplating mitigation measures that could be applied from a distance. Second, which groups of people could be reached out to, to share experiences of prison practices and how could the reliability and credibility of information received be validated? Third, what should be the key focus areas of the monitoring? Which issues could be monitored, and which ones should be prioritized in light of the pandemic? Fourth, how to gather, organize, check and analyze all the information that would be collected? Fifth, how to perform this remote monitoring exercise without overburdening the prison administration with

requests for data at a time when they were handling a crisis, while at the same time keeping dialogue avenues open for constructive engagement on relevant recommendations.

And even if all these issues could be addressed, would the CHR-INPM in practice be able to conduct preventive monitoring without visits? Was it possible to grasp and understand the practices in everyday prison life without being in the prisons? Would the CHR-INPM be able to gather enough reliable information and make sense of it in a way that could be put in writing in the form of a report with concrete recommendations?

This reflection and adaptation process took place with our partners in the Philippines (CHR and Balay), also from a distance due to the travel restrictions during the pandemic. Online meetings and workshops were the only way we could jointly discuss these challenges and start designing a response to the situation at hand. The fact that our partnership was also evolving remotely provided ample opportunities for recognizing and addressing the complexities of building a constructive dialogue while not being able to be physically together. All these experiences and sharing led to an innovative framework for monitoring prisons remotely, designed and adjusted to the Philippines context.

> Since the remote monitoring methodology aspired to still be preventive, it needed to adhere to the same principles as any preventive monitoring of places of detention.

The remote monitoring framework in the Philippines

Based on the training programme that DIGNITY delivered for the CHR-INPM within the first year of the pandemic and our continuous dialogue about the challenges in their monitoring work, we started to jointly design a remote monitoring framework. A series of 6 online workshops were held by the authors and representatives of the CHR-INPM, including Balay, with the main aim to come to a practical, context-specific framework which would be of immediate use for the CHR-INPM. It would be based on DIGNITY's experience with remote monitoring and the knowledge of the CHR-INPM on preventive monitoring in the context of the Philippines. It aimed to provide a framework and specific guidance on remote monitoring by identifying the most important issues to monitor within places of detention in the COVID-19 context ('what to monitor'),

as well as the steps involved in the remote monitoring methodology ('how to monitor').

Since the remote monitoring methodology aspired to still be preventive, it needed to adhere to the same principles as any preventive monitoring of places of detention. The basic principles, identified as the most relevant for remote monitoring, were do no harm, respect confidentiality, exercise good judgement, seek consultation/constructive dialogue, respect detention staff and detainees, and remain credible. Monitoring issues related to COVID-19 also required the CHR-INPM to pay particular attention to vulnerable groups, including both groups that were at increased vulnerability when infected with COVID-19 and groups that were at increased vulnerability because of COVID-19 related limitations, restrictions and measures.

The remote monitoring methodology that was developed included three key steps: 1. Gathering core data from the authorities, 2. Accessing records remotely to gather additional information or cross-check information, and 3. Consulting additional sources of information, that is groups of people outside detention that may be able to provide additional information. The three steps are described in more detail below.

1. Collecting core data from authorities

During on-site visits, monitoring bodies can request and gather important data from the prison authorities. Usually, such information derives from registers and records that are kept within the prison and include for example the number of prisoners, prison capacity, disciplinary measures applied, number of violent incidents, number of staff vs. prisoners, number of health staff and other staff etc. The pandemic deprived monitoring bodies of the possibility of obtaining such information during visits. Therefore, monitoring bodies were urged to request such information remotely and at the same time, redefine the information that was deemed relevant and important. The concept of 'core data' aims to capture the fact that what is being requested is the information derived from records (not the records as such) and that this information needs to be deemed crucial for the monitoring body.

Therefore, DIGNITY together with its partners had to both rethink which information really mattered during this crisis as well as redesign the approach to collecting such information. Based on the partners' contextual analysis and empirical experience, the key issues to monitor were identified and a set of questions that the CHR-INPM would like to receive information on from authorities was developed. This information could be requested and received through written/digital communication as well as during online meetings. Depending on the context, the CHR-INPM would decide who should be the recipient of such a request, as well as how to request and receive data on an ad-hoc basis.

Requesting data in the midst of a crisis is, however, not such a straightforward task. It comes with dilemmas and limitations. Authorities were under real pressure in the efforts to manage COVID-19 in detention and a monitoring body should not be perceived as a hurdle in these efforts. On the contrary, the CHR-INPM needed to be strategic and efficient in gathering the information that was crucial for its work. In addition, collecting information remotely was expected to be much slower, so the CHR-INPM had to take that into consideration in the planning of its work. Although holding online meetings to gather information more quickly seemed promising, the challenges of holding constructive online meetings were not to be underestimated. Online meetings required thorough preparation and a strong focus from all involved. Building trust online and handling dynamics among prison staff (with a great sense of hierarchy), posed additional challenges that the monitoring body had to grapple with.

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2. Accessing records/documents remotely

Unfiltered access to records kept in prison is one of the powers of monitoring bodies, according to the OPCAT. As prisons became out of reach, so did the records that were being kept inside them. In the Philippines, many records are not digital and if they are, they are often poorly maintained and not updated. Nevertheless, reviewing records is an important element of preventive monitoring as it complements the information collected during on-site observations and interviews with detainees, management and staff. It also provides the opportunity to check whether registers and records are well-maintained and updated by the authorities. This cannot be done without having access and reviewing the actual records.

Therefore, the issue of accessing relevant records could not be left out of the remote monitoring framework. Depending on the analysis of the core data gathered from the authorities (step 1 as described above), the CHR-INPM would assess which records needed to be reviewed in order to gather more or cross-check information or to check records-keeping. The way records were to be requested and received would vary depending on the nature of the documents. Some records could be easily reviewed virtually, for example during an online meeting with officials. Other documents could be reviewed through being granted access to a specific database (if available) or by sending copies of the documents digitally or by post. Taking a contextual and needs-based approach, it was up to the CHR-INPM monitoring team to define the way in which it would access records, taking into consideration what was feasible and most efficient for everyone involved.

3. Triangulating through additional sources

Triangulation in the context of preventive monitoring can best be defined as looking into more than two sources of information on the same issue and comparing the information obtained from these sources. It is a powerful technique that facilitates validation of the information obtained through cross-verification from two or more other sources, with the purpose of increasing the *credibility* and the *validity* of the results. Triangulation is very important in the context of prison oversight, as one information source will almost never be able to provide the monitoring body with a complete picture of the situation.

In order to be able to triangulate the information received from the authorities and the records, the CHR-INPM needed to identify and track groups of people outside detention since online interviews with persons detained were not possible due to lack of connectivity and scarce resources for equipment. Therefore, triangulation could only take place through contacting persons outside detention who were able to share their experiences and to provide additional information about what was happening in prisons. The CHR-INPM had identified these key groups of people: 1. Former detainees, 2. Families of detainees, 3. Lawyers, 4. CHR staff handling complaints related to prisons, 5. CSOs/Service providers. Experiences from those outside

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prisons but familiar with issues surrounding prisons would provide an alternative account of life in prison, one that would allow checking the reliability of the information gathered by the authorities. This was in no way an exhaustive list and the CHR-INPM would pursue identifying and tracking relevant groups to create a diversified pool of information based on the specificities of each place of detention.

Since gathering information from persons outside detention would still require some form of interviews to be conducted (remotely or in person), the risk of reprisals had to be analyzed to ensure the application of the do-no-harm principle. It was our joint understanding that the risk of reprisals may exist even for those that are not detained, like ex-detainees, their families, lawyers and CSOs. Therefore, it was necessary to plan and apply measures to mitigate such risks. For example, measures to talk/meet with someone discreetly, to keep communication (written/oral) confidential by using secure platforms, to assess security risks for each source of information and review such assessment frequently. Following-up on the well-being of persons that were in contact with the CHR-INPM was also considered crucial, as well as offering support in case there may be anxiety or re-traumatization caused by the information shared. It was also important to equally think about the risk of reprisals for staff of the detaining authorities in contact with the CHR-INPM. The option of holding separate meetings with specific staff members had to be applied very carefully, in order not to put them at risk of reprisals.

Thorough triangulation of the information obtained through the three steps of the remote monitoring framework allowed the CHR-INPM to assess which information was credible and usable and which was not, thus safeguarding its credibility and leading to targeted recommendations.

As part of this remote monitoring framework and to ensure easier implementation, a practical remote monitoring matrix was developed, especially tailored to the Philippines' context. The matrix consisted of seven categories of issues to monitor and included actions or questions under the three described steps of the remote monitoring framework. The seven categories of issues to monitor included 1. Addressing overcrowding, 2. Limitations and/or restrictions on the rights of

persons deprived of liberty, 3. Prevention and control of the spread of COVID-19, 4. Isolation and quarantine, 5. Healthcare services, 6. Measures for detention staff, and 7. Guidelines. In total, the seven categories included 22 issues to monitor which were reflected in the rows of the matrix. Under each of these issues, the matrix identified core data to be requested from the authorities, records to be reviewed, and groups or actors outside detention to consult. All these were phrased as guiding points and did not constitute an exhaustive list. Additional questions could be asked, and some issues could be looked into in more detail than others, depending on the specific challenges of each prison and the priorities of the CHR-INPM.

The matrix was created to guide the CHR-INPM in its remote monitoring work and allow for a systematic and more practical way of implementing the remote monitoring framework.

Reporting and follow-up

The pandemic had an impact on the reporting process in various ways. First, due to the fact that monitoring bodies had limited or no access to places, persons and records in detention, their credibility may be challenged if they did not ensure that their findings were based on sound information. It would be easier for authorities to disclaim their findings. Even when reports would be drafted efficiently, it would be more challenging for the monitoring body to deliver its message effectively. The dialogue with authorities was greatly impacted and therefore new ways of communicating in a strategic manner needed to be designed and implemented in order to have the desired impact.

For the CHR-INPM to maintain its credibility vis-à-vis prison authorities, it was essential to use careful language when reporting findings if it was not possible to gather all the details that would allow verification of information. In such cases, qualifying the relevant statements in the report was suggested. For example, when receiving allegations about poor conditions, the CHR-INPM needed to consider qualifying these 'remote' findings by presenting them as 'allegations' and not as findings of the CHR-INPM. This would not be the case if the CHR-INPM had been able to visit the prison and observe the conditions in person which would facilitate the CHR-INPM to make its own findings. Moreover, the

> Despite its limitations, the remote monitoring framework offered the opportunity to develop a more capacious approach to monitoring prisons, one that is not exclusively dependent on being inside prisons.

structure of reports and recommendations had to be reconsidered. Drafting long reports with several recommendations seemed not to be appropriate in a crisis situation as the COVID-19 pandemic. Therefore, the remote monitoring framework provided for reporting in a shorter format and with a higher frequency, while the CHR-INPM needed to be extremely strategic in drafting its recommendations. This meant that the monitoring team had to reflect on which kind of recommendations could be measurable, attainable and relevant within a constantly evolving situation. Not to mention the challenges of being able to keep a continuous and constructive dialogue with the authorities from a distance. In this regard, the fact that the CHR-INPM had already established a rather constructive stance towards prison authorities, proved to be very valuable in keeping the engagement going during the pandemic.

When it came to following-up on recommendations, while the CHR-INPM still had limited or no access to places of detention, it would need to return to its original sources of information. The INPM Secretariat would be responsible for exchanging formal correspondence with responsible authorities, while monitoring teams would continue to pursue the gathering of information from groups outside detention and keep monitoring information that was publicly available.

Conclusion

The remote monitoring framework, along with the remote monitoring matrix, was launched in May 2021. The CHR-INPM implemented this framework until access to prisons was made possible again. As anticipated, various challenges and limitations were encountered during its implementation. Most of them related to the very strict restrictions on movement during the pandemic in the Philippines. These restrictions made it extremely difficult to gather information and engage in dialogue both with authorities and with relevant persons outside detention. Such engagements were only possible online but were often hampered by poor connectivity and time pressure. Under such conditions, maintaining relations with authorities required additional efforts to ensure that the CHR-INPM was kept updated about the

situation in prisons in a way that allowed the team to submit findings and recommendations. The pandemic clearly demonstrated how space, time and interpersonal relations affect the potential for monitoring prisons.

Despite its limitations, the remote monitoring framework offered the opportunity to develop a more capacious approach to monitoring prisons, one that is not exclusively dependent on being *inside* prisons. This approach expanded the possibilities of understanding 'access' in a way that is not framed by a focus on *inside* and *outside*, but rather a focus on accessing multiple views and experiences that may be placed beyond prisons. Identifying and interviewing former prisoners, although challenging during a pandemic, may still serve as another entry point for monitoring bodies beyond the pandemic. Such encounters with former prisoners may hold the potential of shifting more focus to the lived experiences of imprisonment, rather than to the prison

itself. Since monitoring bodies are concerned with both conditions and treatment in prisons, the stories shared by former prisoners are of value and push monitors to define and approach their work beyond spatial boundaries ('the prison'), looking at the phenomenon ('imprisonment') and the related experiences.[14]

Although the remote monitoring framework was developed in the context of the pandemic, elements of its methodology could continue to be applied and complement on-site monitoring visits. Such an approach would enrich the process of scrutinizing prisons by embracing more viewpoints and experiences from the field.

Acknowledgement

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14. A similar point is made, regarding ethnography, by Gaborit L (2019). Looking through the Prison Gate: access in the field of ethnography. *Cadernos pagu* (55), 2019:e195505 https://www.scielo.br/j/cpa/a/BmF9bJLRXZZWM6qPRbb759K/?format=pdf&lang=en (accessed 28 November 2022).