

DETENTION AND PUNISHMENT IN THE NAME OF DRUG TREATMENT



Joanne Csete & Richard Pearshouse

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As member states of the United Nations take stock of the drug control system, a number of debates have emerged among governments about how to balance international drug laws with human rights, public health, alternatives to incarceration, and experimentation with regulation.

This series intends to provide a primer on why governments must not turn a blind eye to pressing human rights and public health impacts of current drug policies.

INTRODUCTION

In some countries, people who use, or are alleged to use, illicit drugs may be detained involuntarily after little or no legal process, ostensibly for the purpose of receiving drug “treatment” or “rehabilitation.”

These detentions are variously described as compulsory treatment centers, drug rehabilitation centers, detoxification centers, or “centers for social education and labor.” It is far from clear that all persons detained in this manner are drug-dependent or in need of treatment. If they are, there are international standards to guide treatment of drug-dependence (see Box 1), but drug detention centers often subject detainees to treatment methods that are scientifically unsound, punitive, cruel, inhuman and degrading.

BOX 1

UN HUMAN RIGHTS AND TECHNICAL STANDARDS FOR DRUG DEPENDENCE TREATMENT

All people have the right to health services that are ethical and scientifically sound, delivered by qualified professionals. Treatment for drug dependence:

- Should never be coercive, restrict human rights, or do harm to the patient;
- Should be respectful of people's right to refuse or leave treatment;
- Should be user-friendly and enable patients to choose from a range of evidence-based interventions, including maintenance medications and peer-led support;
- Should be comprehensive and multidisciplinary, ideally including attention to social and family support, housing, and other needs;
- Should be delivered in a nondiscriminatory and nonstigmatizing way and should preserve the privacy of the patient;
- Should be organized such that meeting basic needs or providing medical services is not dependent on compliance with drug dependence treatment; and
- Should be available to persons in the custody of the state at the same level of quality as in the regular health system.

SOURCES: UN Committee on Economic, Social and Cultural Rights, General comment no. 14 on the right of all persons to the highest attainable standard of health, 2000; UNODC and WHO, "Principles of drug dependence treatment: discussion paper," 2008; UNODC, "From coercion to cohesion: Treating drug dependence through health care, not punishment" (discussion paper), 2010.

“...the World Health Organization (WHO) Regional Office for the Western Pacific reported that in detention centers meant to provide drug treatment in Cambodia, China, Vietnam, and Malaysia detainees were denied humane and scientifically sound treatment in favor of confinement and various forms of punishment.”

Detention and punishment in the name of drug treatment has been documented in a number of countries. In 2009, the World Health Organization (WHO) Regional Office for the Western Pacific reported that in detention centers meant to provide drug treatment in Cambodia, China, Vietnam, and Malaysia detainees were denied humane and

scientifically sound treatment in favor of confinement and various forms of punishment.¹ The personnel in many of the centers did not include people with relevant medical credentials but rather was dominated by law enforcement and public security officials. Treatment for HIV was only sporadically provided in some centers. Family members and detainees themselves were often unable to receive information about the type of treatment detainees received. WHO recommended that authorities in the four countries dis-

ussed in the report adopt a plan to shift from the en masse, routine detention in centers of people who use drugs, to voluntary, evidence-based drug dependence treatment in the health care system.²

Since the publication of that report, other organizations have documented conditions in compulsory drug detention centers in a number of other countries. The Canadian HIV/AIDS Legal Network reported that Thailand, despite its rhetorical commitment to treating people who use drugs as “patients not criminals,” sends drug users to “rehabilitation” centers mostly run by the military and the Interior Ministry, where the mainstay of “treatment” is military-style physical exercise.³ Human Rights Watch reports on Vietnam,

1 World Health Organization Western Pacific Regional Office, *Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: an application of selected human rights principles*, (Manila, 2009), http://www.wpro.who.int/publications/docs/FINALforWeb_Mar17_Compulsory_Treatment.pdf

2 Ibid., pp 31-33.

3 R Pearshouse, *Compulsory Drug Treatment in Thailand: Observations on the Narcotic Addict Rehabilitation Act B.E. 2545 (2002)*, (Canadian HIV/AIDS Legal Network, March 2009), <http://www.aidslaw.ca/site/compulsory-drug-treatment-in-thailand-observations-on-the-narcotic-addict-rehabilitation-act-b-e-2545-2002/>

Cambodia, Laos, and China uncovered a wide range of abusive practices undertaken in detention centers in those countries.⁴ The reports documented cases of people who were detained arbitrarily and against their will and who faced beatings and other physical abuse, sexual abuse, squalid living conditions, poor nutrition, and a lack of scientifically sound treatment for drug dependence or infectious disease or both. In some centers, extreme physical violence and other forms of abuse against detainees, including children, was sufficiently severe as to rise to the level of torture. Centers in Vietnam, China, and increasingly, Cambodia subject detainees to forced labor. In some countries, notably Laos and Cambodia, “rehabilitation” centers also hold “socially undesirable” persons such as the homeless (including homeless children), sex workers, people with mental disabilities, and alcoholics, in addition to people who use drugs.⁵ Other organizations have documented cruel and inhuman “treatment” practices in drug detention centers in other countries—Guatemala, Brazil, Mexico, Peru, India, Russia, Serbia, South Africa, and the United

States—including in centers run by churches or other private entities that are often not closely scrutinized or regulated by the state.⁶

As reported by Human Rights Watch, centers in Vietnam and Laos benefited from the financial and technical support of numerous bilateral and multilateral donors.⁷ Indeed, a number of important bilateral donors, including several that strongly espouse human rights or support evidence-based drug treatment as a matter of policy, provide financial assistance to drug detention centers in Asia and beyond.⁸

“In some centers, extreme physical violence and other forms of abuse against detainees, including children, was sufficiently severe as to rise to the level of torture.”

4 See summary report: Human Rights Watch, *Torture in the name of treatment: human rights abuses in Vietnam, China, Cambodia and Lao PDR*, (New York, 2012), <http://www.hrw.org/reports/2012/07/24/torture-name-treatment-0>

See also individual reports:

HRW, *An unbreakable cycle: Drug dependency treatment, mandatory confinement, and HIV/AIDS in China's Guangxi Province*, (December 2008), <http://www.hrw.org/reports/2008/12/08/unbreakable-cycle-0>

HRW, “Where darkness knows no limits”: *Incarceration, ill-treatment and forced labor as drug rehabilitation in China*, (January 2010), <http://www.hrw.org/reports/2010/01/07/where-darkness-knows-no-limits-0>

HRW, “Skin on the cable”: *The illegal arrest, arbitrary detention and torture of people who use drugs in Cambodia*, (January 2010), <http://www.hrw.org/reports/2010/01/25/skin-cable-0>

HRW, *The rehab archipelago: Forced labor and other abuses in drug detention centers in Southern Vietnam*, (September 2011), <http://www.hrw.org/reports/2011/09/07/rehab-archipelago-0>

HRW, *Somsanga's secrets: Arbitrary detention, physical abuse, and suicide inside a Lao drug detention center*, (October 2011), <http://www.hrw.org/reports/2011/10/11/somsanga-s-secrets-0>

HRW, “They Treat Us Like Animals”: *Mistreatment of Drug Users and “Undesirables” in Cambodia's Drug Detention Centers*, (December 2013), <http://www.hrw.org/reports/2013/12/08/they-treat-us-animals>

5 JJ Amon, R Pearshouse, JC Cohen and R Schleifer, *Compulsory drug detention in East and Southeast Asia: evolving government, donor and UN responses*, (International Journal of Drug Policy, 25:13–20, 2014).

6 R Saucier and D Wolfe, *Privatizing cruelty—torture, inhumane and degrading treatment in non-governmental drug rehabilitation centers*, (Center for Human Rights and Humanitarian Law, Anti-Torture Initiative); *Torture in health care settings: reflections on the Special Rapporteur on Torture's 2013 thematic report*, (Washington, DC: American University, 2014, pp 123–132).

7 Amon et al., op. cit. (note 5).

8 P Gallhue, R Saucier, D Barrett, *Partners in crime: International funding for drug control and gross violations of human rights*, (London: Harm Reduction International, 2012), http://www.ihra.net/files/2012/06/20/Partners_in_Crime_web1.pdf

“The [UN] statement observes that detention in these centers ‘often takes place without the benefit of due process, legal safeguards or judicial review,’ and notes the lack of evidence that effective drug dependence treatment is possible in such settings.”

This paper highlights considerations that should be brought to bear in the 2016 United Nations General Assembly Special Session (UNGASS) on the world drug problem, toward the goal of ending arbitrary detention and grave human rights abuses in the name of drug treatment.

WHAT THE UN AND OTHER INTERNATIONAL AUTHORITIES SAY

In March 2012, 12 UN bodies—including the Joint United Nations Programme on HIV/AIDS (UNAIDS), WHO, the UN Office on Drugs and Crime (UNODC), the International Labour Organization, and the Office of the High Commissioner of Human Rights—jointly issued a call for the closure of compulsory drug detention centers and an expansion of voluntary, scientifically and medically appropriate forms of treating drug dependence in the health system.⁹ The statement observes that detention in these centers “often takes place without the benefit of due process, legal safeguards or judicial review,” and notes the lack of evidence that effective drug dependence treatment is possible in such settings. The UN bodies call for immediate closure of compulsory drug detention centers or, if that is not possible, a process of progressive closure over time and a moratorium on new admissions in the meantime.¹⁰

The Global Fund to Fight AIDS, TB and Malaria—the most important source of funds globally for HIV and TB services for people who use drugs—decided in 2014 that as a matter of general principle it would no longer finance “activities in or related to compulsory treatment programs or facilities” except in extraordinary circumstances “with heightened...scrutiny, on a case-by-case basis.”¹¹

9 International Labour Organization, Office of the High Commissioner of Human Rights, World Health Organization, et al. *Joint statement: compulsory drug detention and rehabilitation centres*, March 2012. At: http://www.unaids.org/sites/default/files/sub_landing/files/JC2310_Joint%20Statement6March12FINAL_en.pdf

10 Ibid.

11 Global Fund to Fight AIDS, Tuberculosis and Malaria, *Strategy, Investment and Impact Committee (SIIC), “SIIC decisions and recommendations to the Board,”* (32nd Board meeting [Decision Point GF/SIIC3/DP07: Policy on Compulsory Treatment Facilities], Geneva, November 2014), <http://www.theglobalfund.org/en/board/meetings/32/>

UN Special Rapporteurs on human rights issues have also weighed in on drug detention centers. The 2013 thematic report of the Special Rapporteur on torture, Juan Méndez, noted the abusive nature of compulsory detention of people who use drugs:

Detention and forced labor programmes therefore violate international human rights law and are illegitimate substitutes for evidence-based measures, such as substitution therapy, psychological interventions and other forms of treatment given with full, informed consent... The evidence shows that this arbitrary and unjustified detention is frequently accompanied by—and is the setting for—egregious physical and mental abuse.¹²

Méndez classified these egregious abuses as torture and called for the urgent elimination of such practices, with mechanisms of redress for those affected. Anand Grover, who from 2008 to 2014 served as the UN Special Rapporteur on the right to health, also condemned “compulsory [drug] treatment programmes that primarily utilize disciplinary interventions, disregarding medical evidence,” and noted forced labor, flogging, solitary confinement, and other punishments in the guise of treatment as gross violations of human rights.¹³

“[UN Special Rapporteur on the Right to Health] Anand Grover... also condemned ‘compulsory [drug] treatment programmes that primarily utilize disciplinary interventions, disregarding medical evidence,’ and noted forced labor, flogging, solitary confinement, and other punishments in the guise of treatment as gross violations of human rights.”

¹² JE Méndez, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,” (UN Human Rights Council, 22nd session, UN doc. A/HRC/22/53, 1 February 2013).

¹³ A Grover, “Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,” (UN General Assembly, 65th session, UN doc. A/65/255, 6 August 2010).

“The Committee on the Rights of the Child... urged Cambodia to release children in drug detention centers, and investigate reports of torture and other forms of ill treatment against child detainees.”

WHO and UNODC have established principles of treatment for drug dependence, which emphasize that drug dependence treatment must be voluntary and not coercive or punitive. Among the principles highlighted are the following:

The human rights of people with drug dependence should never be restricted on the grounds of treatment or rehabilitation. Inhumane or degrading practices and punishment should never be part of treatment of drug dependence...Neither detention nor forced labor have been recognized by science as treatment for drug use disorders.¹⁴

Human rights treaty bodies have also called for reform or closure of drug detention centers. In response to a report from Guatemala, for example, the UN Committee Against Torture, the body that oversees compliance with the 1984 Convention on Torture, called for government action to stop human rights abuses in drug rehabilitation centers, to ensure that drug treatment centers are run by qualified health professionals, and that centers are subject to regular inspection by independent observers.¹⁵ It further enjoined Guatemala to establish an effective mechanism of complaint and redress for persons whose rights are abused in these centers.¹⁶

The Committee on the Rights of the Child, which oversees implementation of the widely ratified 1989 Convention on the Rights of the Child, urged Cambodia to release children in drug detention centers, and investigate reports of torture and other forms of ill treatment against child detainees. The same Committee enjoined Vietnam to eliminate the inhumane treatment and forced labor of children in its drug detention centers.¹⁷

14 UN Office on Drugs and Crime and World Health Organization, *Principles of drug dependence treatment (discussion paper)*, (Vienna, 2008, pp 10, 15), <http://www.unodc.org/documents/drug-treatment/UNODC-WHO-Principles-of-Drug-Dependence-Treatment-March08.pdf>

15 UN Committee Against Torture (CAT), *Concluding observations on the combined fifth and sixth periodic reports of Guatemala, adopted by the Committee at its fiftieth session (6–31 May 2013)*, 21 June 2013, CAT/C/GTM/CO/5-6, available at: <http://www.refworld.org/docid/51dfe1fa4.html> [accessed 27 August 2015].

16 Ibid.

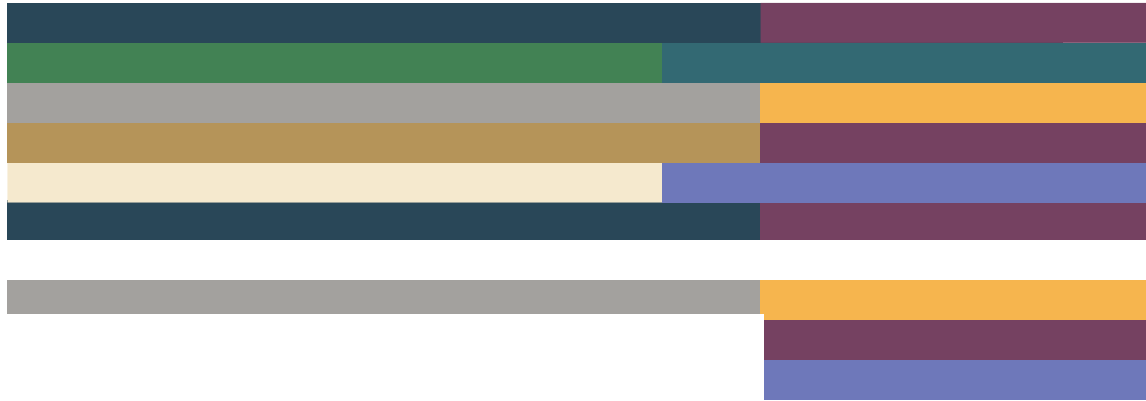
17 Cited in Amon et al., *op. cit.*, p 14.

BOX 2

INSTITUTIONS THAT HAVE CALLED FOR CLOSURE OF COMPULSORY REHABILITATION CENTERS

- World Health Organization
- Global Fund to Fight AIDS, Tuberculosis and Malaria
- Joint United Nations Programme on HIV/AIDS (UNAIDS)
- UN Office on Drugs and Crime (UNODC)
- UN Office of the High Commissioner for Human Rights
- UN Women
- UN Children's Fund (UNICEF)
- International Labour Organization
- UN Development Programme (UNDP)
- UN Population Fund (UNFPA)
- UN High Commissioner for Refugees
- World Food Programme
- UN Educational, Scientific and Cultural Organization (UNESCO)
- Global Commission on Drug Policy
- Latin America Commission on Drug Policy
- West Africa Commission on Drugs
- UN Special Rapporteurs on health and torture
- UN Committee on the Rights of the Child
- Global Commission on HIV and Law

Source: See Amon et al., op.cit. (footnote 5).



ISSUES PERTINENT TO UNGASS DEBATES

Arbitrary detention: WHO and UNODC note that compulsory treatment might be legally acceptable “only in exceptional crisis situations of high risk to self or others,” but that “neither detention nor forced labor have been recognized by science as treatment for drug use disorders.”¹⁸ Because detention, exhausting physical exercises, military-style drills, slogan shouting, and forced labor are not scientifically or medically valid forms of drug dependence treatment, subjecting people to such regimes can never be justified. The International Covenant on Civil and Political Rights states that: “No one shall be subjected to arbitrary arrest or detention.” According to the UN Human Rights Committee, detention is considered arbitrary if it is not in accordance with law or if it presents “elements of inappropriateness, injustice, lack of predictability and due process of

¹⁸ UNODC/WHO, “Principles of Drug Dependence Treatment,” (March 2008, p.9).

law.” Detention for the purpose of scientifically unjustified “treatment” is arbitrary and violates human rights law.

In the four Asian countries studied by Human Rights Watch, former detainees of drug detention centers reported that they themselves were seized and put into the centers by police or other security forces without access to legal counsel and without the opportunity to have their case heard by a judge or tribunal.¹⁹ Detainees were not always informed of the charges against them or of the length of their detention, which sometimes was extended unpredictably and could last years. At no stage did detainees have an opportunity to appeal their detention.

In these countries and others, people may also be committed to drug detention centers by parents or other relatives who are assured that their family member would be cared for, and are unaware of the unacceptable living conditions or punitive forms of “treatment” used.²⁰ In Russia, families reportedly can arrange for what amounts to an abduction of a drug-using family member for involuntarily placement in a center.²¹ In Mexico, so-called “spiritual patrols” have a long history of abusive strong-arm tactics to forcibly transport people to treatment centers, often church-run, sometimes at the behest of family members.²² In Guatemala, Pentecostal churches derive significant revenue from rehabilitation centers and may send “hunting parties” to communities to seek “patients,” sometimes with the help of the police.²³ Saucier and Wolfe note that even in the rare cases that people are referred to drug detention centers by a health professional, as in Brazil, those referrals may be based on very cursory judgments of one

“Detention for the purpose of scientifically unjustified ‘treatment’ is arbitrary and violates human rights law.”

19 HRW, *Torture in the name of treatment*, op. cit.

20 Ibid.; Saucier and Wolfe, op. cit.

21 Saucier and Wolfe, op. cit., p125.

22 Zamudio C, Chávez P, and Zafra E. (2015). *Abusos en centros de tratamiento con internamiento para usuarios de drogas en México*. (In Spanish) (Cuaderno Cupihd 8. Mexico City: Colectivo por una política integral hacia las drogas).

23 KL O’Neill (University of Toronto, Study of Religion), “Guatemala’s compulsory rehabilitation centers: Submission to the UN Committee Against Torture,” Submitted April 9, 2013; See also, KL O’Neill, *On liberation: Crack, Christianity and captivity in postwar Guatemala City*, (Social Text 32(3):11–28, 2014).

“Like adult detainees, children are held against their will, detained arbitrarily, and subjected to physical, sexual, and psychological violence, and, in at least Vietnam and Cambodia, forced labor.”

person, or may be influenced by local authorities who want to rid the streets of people who use drugs.²⁴

In the countries studied by Human Rights Watch, thousands of children are locked up in such centers. Children may be detained in various ways—because they use or are suspected of using drugs, or because family

members request authorities to detain them in the mistaken belief that the centers are indeed therapeutic. Children living on the street are often picked up by police or other security forces carrying out an operation to “clean the streets.” They can also be detained because they are the infants or young children of homeless people or beggars picked up in such operations. Like adult detainees, children are held against their will, detained arbitrarily, and subjected to physical, sexual, and psychological violence, and, in at least Vietnam and Cambodia, forced labor.

The detention of children with adults in rehabilitation facilities violates internationally agreed upon principles of juvenile justice. These principles mandate that detention of children should be a measure of last resort, and that they should never be housed with adults while in the custody of the state.²⁵ The UN Standard Minimum Rules on the Administration of Juvenile Justice note that deprivation of liberty among children “shall not be imposed unless the juvenile is adjudicated of a serious act involving violence against another person or of persistence in committing other serious offences and unless there is no other appropriate response.”²⁶

²⁴ Saucier and Wolfe, *op. cit.*, p.126.

²⁵ See, e.g., *Convention on the Rights of the Child*, article 37(b) and 37(c).

²⁶ United Nations General Assembly, *UN Standard Minimum Rules for the Administration of Juvenile Justice*, (UNGA res. 40/33, 29 November 1985, article 17.1(c)).

Torture, ill treatment and squalid conditions:

The range of physical and psychological abuse and inhumane living conditions that have been documented in compulsory drug detention facilities around the world are shocking by any standard. In the East and South-east Asian centers investigated by Human Rights Watch, people reported having been beaten brutally to the point of unconsciousness and/or broken limbs, having been whipped in response to minor infractions of center rules, and

having been subjected to starvation and sexual assault.²⁷ In Guatemala, Kevin O'Neill, a researcher at the University of Toronto, encountered detainees on the verge of suicide because of heinous deprivations and cruel punishments.²⁸ In some facilities in Mexico, "treatment" consists of forcing people to eat their own vomit, to eat food from the container where they urinate or defecate, and to clean up their own feces with their bare hands.²⁹ Human Rights Watch notes that cruel and abusive "treatment" may persist even in places where, by law or policy, drug use is not criminalized and people who use drugs are designated as "patients, not criminals."³⁰ In addition, reports from many countries indicate conditions of wholly inadequate sanitation, poor access to water and food, poor ventilation, and gross overcrowding.

"In some facilities in Mexico, 'treatment' consists of forcing people to eat their own vomit, to eat food from the container where they urinate or defecate, and to clean up their own feces with their bare hands."

²⁷ Ibid., p.9.

²⁸ KL O'Neill, *On liberation*, op. cit.

²⁹ Colectivo de Acción y Transformación Integral, *Experiencias de maltrato a pacientes en centros de atención a adicciones que no cumplen con las normas de regulación mexicanas*, ([Mexico City], 2015.).

³⁰ Amon et al., op. cit.

“In many centers the mainstay of ‘treatment’ for drug dependence consists of forced physical exercise and military drills.”

Forced labor: In many drug detention centers, being forced to labor—often in dangerous and injurious work—is presented as a component of treatment, effectively making these facilities forced labor camps. According to Human Rights Watch’s investigations, forced labor by detainees is a formal legal requirement for all detainees in Vietnam and occurred on a de facto basis in centers in China, and, increasingly, Cambodia.³¹ The work includes backbreaking construction and agricultural jobs, as well as long hours in the manufacture of shoes, clothing, or handicrafts for export.³² The exportation of cashew nuts is a major industry in Vietnam, and in many centers under Ho Chi Minh City administration, detainees are required to spend long hours husking cashews without protective gear to fulfill the day’s quota, resulting in injuries to the detainees from toxic cashew resin.³³ Children are also subjected to forced labor in the countries where they are incarcerated with adults.³⁴

Health services and HIV risk: It is clear from testimony from former detainees that where there are any health services provided in these centers, those services are generally not provided at anything like an acceptable standard of quality. In many centers the mainstay of “treatment” for drug dependence consists of forced physical exercise and military drills, with those in charge of the centers determined to make the detainees sweat, the stated aim being the removal of drugs from the body. Depending on the country and the center, physical exercises and military drills may be accompanied by anti-drug lessons and slogan shouting. As noted by the UN bodies in their 2012 statement, even if a better range of drug treatment options were available, “there is no evidence that these centers represent a favorable or effective environment for the treatment of drug dependence.”

31 HRW, *Torture in the name of treatment*, op. cit.; HRW, “*They Treat Us Like Animals: Mistreatment of Drug Users and “Undesirables” in Cambodia’s Drug Detention Centers*, (December 2013), <http://www.hrw.org/reports/2013/12/08/they-treat-us-animals>

32 Ibid.

33 Ibid., p 15.

34 Ibid.

The issue of HIV in the centers is a serious health and human rights concern. In Malaysia, for example, researchers found that of a sample of detainees from the country's two largest drug detention centers about 78% were diagnosed with HIV, but only 9% of those received any kind of HIV care, and the vast majority had no access to antiretroviral therapy.³⁵ In addition, almost 25% of the sample had symptoms of active tuberculosis, but none received any TB screening or care. Human Rights Watch found in several countries that detainees reported undergoing mandatory HIV testing but were not told the results of those tests and received no HIV care.³⁶ At the same time, the centers were rife with HIV and hepatitis C risk, including unprotected sex and unsafe drug injection. The absence of prevention and care for both HIV and hepatitis C in these centers constitutes a major public health risk for detainees as well as the larger community.

Some external donor organizations have based their involvement in drug detention centers on humanitarian grounds, with the stated position that donors and their implementing partners have an obligation to relieve the suffering of detainees and provide access to lifesaving treatment. Some have expressed concern that shutting down drug detention centers would deprive detainees of essential health services, however objectionable other practices might be.³⁷ As noted by the 12 UN agencies in the 2012

“The absence of prevention and care for both HIV and hepatitis C in these centers constitutes a major public health risk for detainees as well as the larger community.”

35 JJ Fu, AR Barazi, FL Altice et al, “Absence of antiretroviral therapy and other risk factors for morbidity and mortality in Malaysian compulsory drug detention and rehabilitation centers” (PLoS One), DOI: 10.1371/journal.pone.004424, 2012.

36 HRW, *Torture in the name of treatment*, op. cit.

37 *Ibid.*, p.17.

“The joint UN statement emphasizes the urgent need for all countries to develop ‘voluntary, ambulatory, residential and evidence-informed’ services that can be the locus of care for people with drug-related health problems.”

joint statement, such health services as may exist in drug detention centers could be better provided on a voluntary basis within the regular health care system of the community.³⁸ The joint UN statement emphasizes the urgent need for all countries to develop “voluntary, ambulatory, residential, and evidence-informed” services that can be the locus of care for people with drug-related health problems.

The detention of persons who are seriously ill, and for whom ongoing detention will bring serious adverse physical or mental effects or will constitute an excessive hardship, may violate the prohibition against “cruel, inhuman or degrading treatment or punishment,” as well as the right to the highest attainable standard of physical and mental health. Even if donors support the provision of HIV treatment in the centers, it is hard to

see how appropriate HIV testing, care, and support can be ensured in settings characterized by daily forced labor, exhausting physical exercises, and physical violence against those detainees who infringe minor center rules. Rather than funding the HIV treatment needs of detainees, external organizations working on health care can and should press for the release of all persons living with HIV, and all seriously ill individuals inside centers, as a step towards the release of all detainees and an acknowledgement that ill detainees are best cared for outside of centers.

³⁸ UN Joint statement, op. cit.

Delays in closing down drug detention centers:

At a 2012 UN-sponsored meeting, nine countries of East and Southeast Asia committed themselves to decreasing the numbers of compulsory drug detention centers within their borders, but at a rate to be determined by each country.³⁹ Joe Amon and colleagues at Human Rights Watch note that publicizing abusive practices in drug detention centers has opened debates about the nature of drug treatment in some countries, and has raised awareness among donors and technical support agencies, but there remains little concrete action to close drug detention centers at the country level.⁴⁰

Malaysia has closed some detention centers in favor of what it has called “Cure and Care” clinics and mobile services. As of late 2012, there were an estimated 21 compulsory detention centers with about 5,100 detainees,⁴¹ and there were about 179,000 nonresidential and 1,800 residential patients in “Cure and Care” facilities.⁴² Malaysia’s efforts are backed up by well-established methadone services that have been available since the mid-2000s.⁴³ Despite reports of a plan to reduce the number of drug detention centers to four by 2015, by late 2014 the Malaysian government still reported 19 centers operational across the country.⁴⁴

Progress in other countries has been less tangible. In Cambodia, the UN Country Team reported in 2010 that the government intended to scale down the number of centers to just one by 2015, and welcomed this as “a shift to an evidence- and

“...publicizing abusive practices in drug detention centers has opened debates about the nature of drug treatment in some countries, and has raised awareness... but there remains little concrete action to close drug detention centers at the country level!”

39 Amon et al., op. cit., p17.

40 Ibid.

41 S Kaur, “Transformation journey of treatment and rehabilitation programs in Malaysia: compulsory to open access services,” (presentation to the 7th Conference of the International AIDS Society on HIV Pathogenesis, Treatment and Prevention, Kuala Lumpur, 1 July 2013).

42 D Singh, MC Chawarski, R Schottenfeld, B Vicknasingam, “Substance abuse and the HIV situation in Malaysia,” (Journal of Food and Drug Analysis 21(4):S46-S51, 2013).

43 Ibid.

44 S Kaur, op.cit., <http://www.adk.gov.my/web/guest/taburan-ccrc>

45 UN Country Team Cambodia, "Joint statement on drug dependence treatment and support to the Royal Government of Cambodia," (16 February 2010), <http://www.un.org/kh/index.php/newsroom/speech-and-statement/298-the-un-country-team-joint-statement-on-drug-dependence-treatment-and-support-to-the-royal-government-of-cambodia>

46 HRW, "They Treat Us Like Animals": *Mistreatment of Drug Users and "Undesirables" in Cambodia's Drug Detention Centers*, <http://www.hrw.org/reports/2013/12/08/they-treat-us-animals> December 2013.

47 UNODC, "UNODC Executive Director meets Viet Nam Deputy PM Nguyen Xuan Phuc, offers continued assistance to government plan to reduce number of compulsory detention centers for drug users," (press release, 4 December 2012), <http://www.unodc.org/unodc/en/press/releases/2012/December/unodc-executive-director-meets-viet-nam-deputy-pm-nguyen-huan-phuc.html>

48 See "Safety restored in Ho Chi Minh City areas once plagued by junkies," (Tuoi Tre News, 12 January 2015), <http://tuoitrenews.vn/society/25331/safety-restored-in-ho-chi-minh-city-areas-once-plagued-by-junkies>; Dam Huy -Dinh Phu, "Ho Chi Minh City cops, militiamen conduct record crime sweep," (Thanh Nien News, 8 December 2014), <http://www.thanhniennews.com/society/ho-chi-minh-city-cops-militiamen-conduct-record-crime-sweep-34926.html>

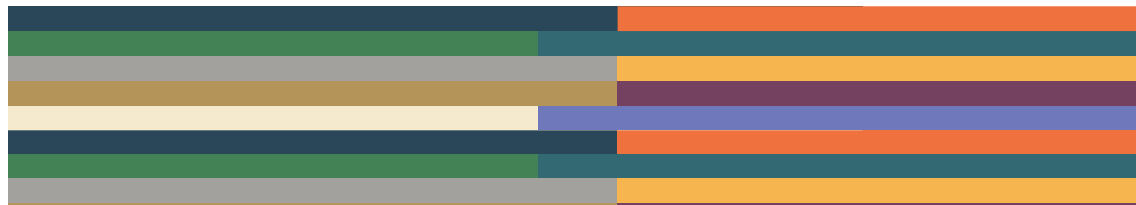
49 UNAIDS, "The urgent need for evidence-informed and rights-based drug dependence treatment in Asia," (28 November, 2014), http://www.unaids.org/en/resources/presscentre/featurestories/2014/november/20141128_detentioncenters

community-based model in line with a rights-based approach."⁴⁵ However, as of late 2013, there were eight drug detention centers spread throughout Cambodia that, at any point in time, collectively held around 1,000 men, women, and children—a similar number of centers and detainees to the situation reported in late 2009.⁴⁶

The Vietnamese authorities in 2012 announced their intention to reform that country's compulsory drug detention centers and were congratulated for this decision by UNODC.⁴⁷ However, the centers are still in operation and, for example, Ho Chi Minh City received hundreds of new detainees in late 2014 as a result of major drug crackdowns and mass arrests.⁴⁸

In late 2014, UNAIDS issued a statement on drug detention centers that lamented that "progress at the country level has remained largely insufficient. Some countries in the region have recently been reported to be planning to increase the capacity of their drug detention centres, or to consider legislation to further entrench them."⁴⁹

"Despite reports of a plan to reduce the number of drug detention centers to four by 2015, by late 2014 the Malaysian government still reported 19 centers operational across the country."





CONCLUSIONS AND RECOMMENDATIONS

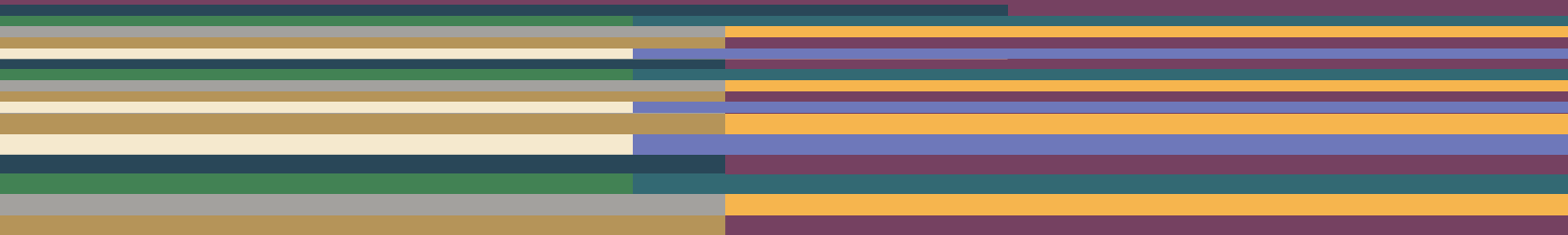
The UN General Assembly Special Session on drugs is a crucial opportunity to express, and mobilize action on, a strong international consensus to end detention and punishment in the name of drug treatment—practices that deny the humanity and the rights of people who use drugs.

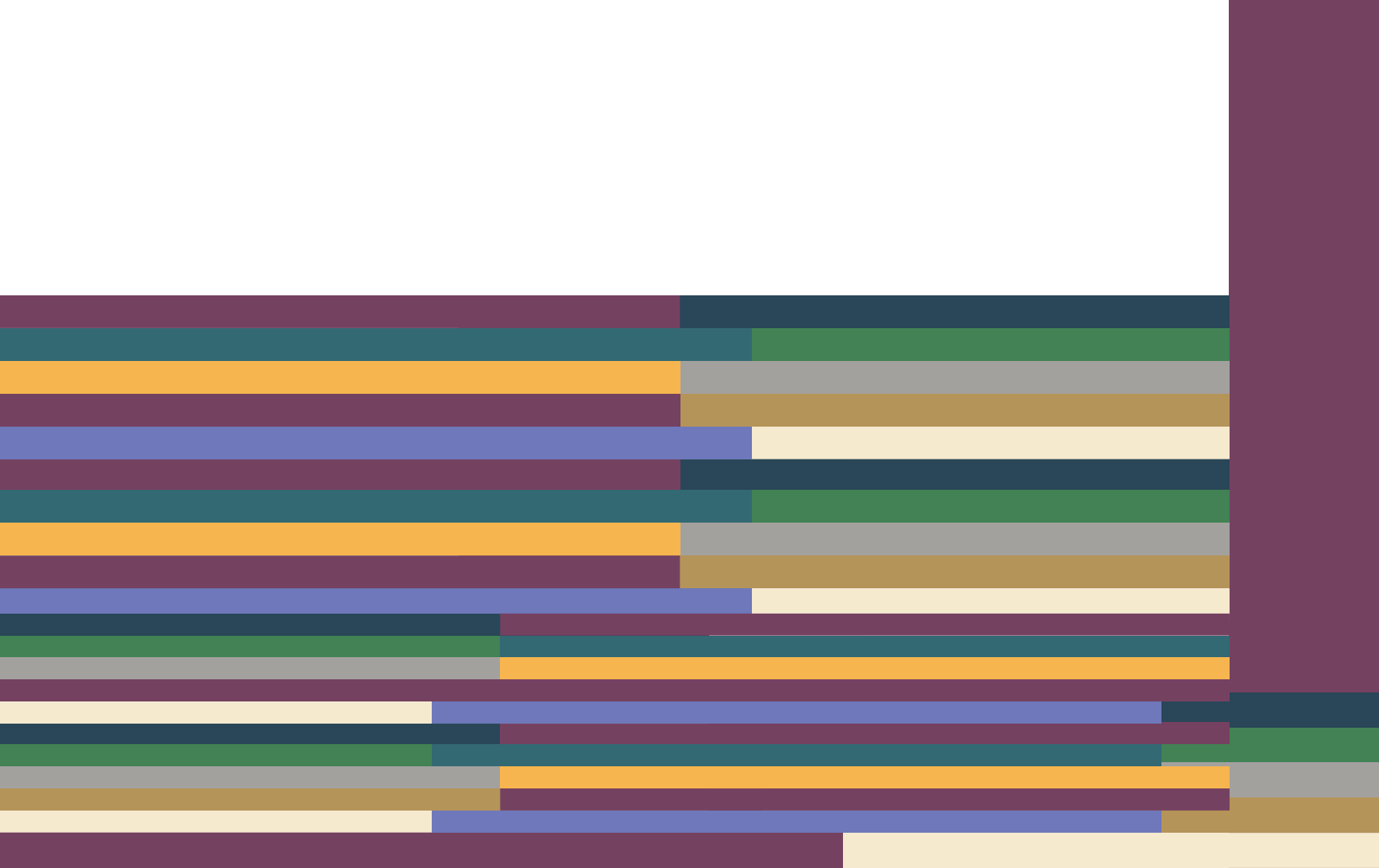
The 2012 joint UN statement on compulsory drug rehabilitation centers was a very important step, but a declaration from UN member states condemning these institutions and calling for their closure would advance the cause of ending the abuses they represent. In particular:

- The UNGASS declaration should strongly urge all countries to close all centers that routinely detain people en masse for the involuntary treatment of drug dependence.
- The UNGASS declaration should strongly urge countries to collaborate in the collection and dissemination of accurate, up-to-date data for a global database of drug detention centers, including (a) whether compulsory drug detention centers are still in operation or not; (b) the number of compulsory drug detention centers; (c) average numbers of people in the centers; and (d) turnover in the centers.
- The UNGASS declaration is an opportunity to emphasize the urgent need for all countries to monitor practices in both state *and private* treatment facilities and to establish mechanisms for complaints, prompt follow-up, and redress when abuses occur.

- The UNGASS declaration should express the urgent need for all countries to ensure access in the regular health system to services for the treatment of drug dependence and related conditions, including HIV and hepatitis C, that are voluntary, scientifically and medically appropriate, and humane.
- The UNGASS declaration is an opportunity for donor countries to pledge strong support to the development of services for drug treatment that are community-based, voluntary, and scientifically sound, and to commit themselves to withdrawing support for abusive drug detention.
- In countries where closure of drug detention centers is not currently envisaged, the UNGASS declaration should outline immediate intermediate steps toward the eventual closure of these institutions. These include:
 - a. Establishing a moratorium on new admission to the centers that remain open;
 - b. Ending labor inside centers, which constitutes forced labor in violation of international law;
 - c. Releasing all persons inside centers living with HIV and all seriously ill individuals as an acknowledgement that ill detainees are best cared for outside of centers where daily life consists of forced labor, physical abuse, and inadequate nutrition; and
 - d. Reduced periods of detention.
- In addition, the designation of people who use drugs as “patients” in the law or the decriminalization of drug use is plainly not sufficient to prevent abusive and involuntary “treatment.” It would be useful for the UNGASS record to emphasize that, in national law and policy, there should be a clear mandate for voluntary, scientifically sound care in the regular health system to be the default response to drug dependence and other drug-related health needs, rather than any criminal justice system-based action.

“The UNGASS declaration is an opportunity for donor countries to pledge strong support to the development of community-based, voluntary, scientifically sound services for drug treatment and to commit themselves to withdrawing support for abusive drug detention.”





Open Society Foundations

224 West 57th Street

New York, NY 10019 USA

+1 212 548 0600

opensocietyfoundations.org

