HHR
Health and Human Rights Journal

EDITORIAL

A Slow Paradigm Shift: Prioritizing Transparency, Community Empowerment, and Sustained Advocacy to End Compulsory Drug Treatment

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For the past two years, we, the editors of this special section, have worked in close collaboration in various ways to reenergize discussions at the international, regional, and national levels on the closure of compulsory drug detention facilities and the transition to rights-based approaches to drug treatment.[1] In August 2020, we convened the joint UNAIDS-UNODC Asia-Pacific Expert Advisory Group on Compulsory Facilities for People Who Use Drugs, comprising 11 academic, government, and civil society experts from the region working across disciplines and sectors to share strategic advice with the United Nations (UN) and strengthen advocacy for human rights-based alternatives to compulsory treatment in their respective national contexts.[2] Then, in January 2022, we published a new report taking stock of the last decade of compulsory drug treatment implementation and highlighting promising case studies of voluntary rights- and community-based responses in East and Southeast Asia.[3] In the report, we documented continued political and financial support for compulsory facilities, with little change in the past decade in the number of people detained, which remains at almost half a million people annually in seven countries in East and Southeast Asia. Detention in compulsory centers has been associated with an elevated risk of acquiring HIV and not receiving antiretroviral therapy, with repeat detainment associated with a greater risk of HIV infection. Only two countries reported that referral to, or continuation of, antiretroviral therapy was provided for people living with HIV in such facilities. Free condoms and sterile injecting equipment were unavailable inside compulsory facilities in all the countries. Instead, many compulsory treatment systems in the region continue to implement unscientific, and often harmful, practices in the name of enforcing abstinence from drug use, leading to severe human rights violations. These include compulsory physical exercise, lack of adequate nutrition, physical and sexual violence, denial or comparatively lower access to quality health care services, mandatory religious instruction, and forced labor as "therapy."

Efforts to convene the expert advisory group and to conduct a formal regional consultation with government authorities in East and Southeast Asia and engage in meaningful national-level advocacy following the publication of the findings have been punctuated by mobility restrictions and myriad challenges posed by the COVID-19 pandemic. But the pandemic has also made the costs of inaction on ending

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compulsory drug detention unquestionably clear. Nearly 500,000 people are detained in the name of drug rehabilitation in East and Southeast Asia in massively overcrowded conditions, facing grave violations of human rights and serious risks to health, as highlighted in 2020 in a joint statement by 13 UN entities.[4] Indeed, the pandemic has made evident the urgent need to continue having discussions and engaging in advocacy efforts at all levels to better understand why the closure of compulsory drug detention facilities has stalled in recent years and to put renewed pressure on states to end the inhumane practice of detaining individuals involuntarily in the name of drug treatment.

One result of this ongoing joint work is this special section. The issue was timed to coincide with the 10-year anniversary of the 2012 UN Joint Statement on Compulsory Drug Detention and Rehabilitation Centres, in which 12 UN entities called on governments worldwide to close compulsory drug detention and rehabilitation facilities.[5] The joint statement not only stressed that compulsory centers violate human rights and threaten the health of detainees but also recognized "their lack of effectiveness in preventing relapse, their high costs," and their "negative impact on efforts to ensure universal access to HIV prevention, treatment, care and support." Still highly relevant to today's world and to the aims of this special section, the joint statement encouraged states to examine and address the "root causes of vulnerability," including poverty, gender inequality, lack of sufficient family and community support structures, and other social determinants of health and drug use.

Our call for submissions aimed to attract papers and viewpoints that went beyond describing already widely documented harms associated with compulsory drug treatment to identifying critical leverage points to address the most pressing challenges to ending compulsory treatment and expanding voluntary evidence- and rights-based services.[6] We were hopeful that papers from around the world would showcase human rights-based approaches to drug treatment, interrogate the status quo on the continued use of involuntary commitment of people who use drugs, and illuminate important lessons and recommendations for revitalizing advocacy efforts to eradicate compulsory and punitive modalities in favor of health-oriented, rights-based responses.

In their totality, the papers and viewpoints dissect and critique the prohibitionist status quo using a range of multidisciplinary lenses and identify strategies for expanding voluntary health- and human rights-based alternatives. There is presently both a necessity and an opportunity to consolidate advocacy efforts across the UN, academia, and civil society and escalate pressure on states to end compulsory and punitive treatment practices and instead strengthen transparency, accountability, and monitoring related to national drug treatment systems. The contributions to this special section provide helpful potential pathways for taking concerted action to achieve our ultimate common goal of health and human rights for all persons whose lives involve drugs.

Interrogating the paradigm of prohibition

A first cluster of papers and viewpoints examine national iterations of the prohibitionist paradigm across varied contexts, from China and the Philippines to Morocco and Brazil. For decades, the discourse of prohibition has positioned drugs and people who use them as enemies in a "war" to be won at all costs. This framing has been used to systematically deprive people who use drugs of their human rights in the name of abstinence and treatment. Punishments meted out through criminal and administrative laws, policing, and imprisonment and other forms of detention emerged as the prevailing tools to achieve the elusive "drug free" world at the center of this paradigm. Compulsory centers and other coercive forms of drug treatment are part and parcel of this continuum of punishment.

In "No Exit: China's State Surveillance over People Who Use Drugs," Mu Lin, Nina Sun, and Joseph J. Amon describe the human rights concerns related to the wide-reaching state surveillance system imposed by Chinese authorities on people who use drugs. In particular, the authors elucidate how the integration of compulsory detoxification and

community-based rehabilitation into information management and control systems such as the Dynamic Control System restricts the most basic daily activities of people who use drugs, including their ability to access health and support services and pursue education and employment. In their quest to enforce total abstinence and prevent relapse into drug use, China has created an unremitting policing and "supervision" system that negatively affects the rights and health of people who use drugs and exacerbates drug-related stigma and discrimination.

In "The Politics of Drug Rehabilitation in the Philippines," Gideon Lasco and Lee Edson Yarcia argue that forced drug rehabilitation is popularly conceptualized as the humane and acceptable alternative to incarceration or—worse—extrajudicial killings in the Philippines. This long-standing perception is perpetuated by a history of penal populism, moral panic around drugs, and moralistic views of people who use them. In practice, however, the authors show that there is little difference between jails and drug rehabilitation centers. Lasco and Yarcia conclude with a call for rights-based responses to drugs that goes beyond the criminal and medical frameworks portraying people who use drugs either as "criminals" or "patients." Real change, they argue, requires redressing the colonial roots of international drug control, particularly by creating spaces for and supporting civil society voices from the Global South to lead drug policy reform efforts.

In "The Right to Health as a Tool of Social Control: Compulsory Treatment Orders by Courts in Brazil," Luciano Bottini Filho reviews a sample of court decisions to show how the constitutional right to health has been used to justify handing out compulsory treatment orders in a context of mounting punitive policies and discourse in Brazil, where therapeutic communities are historically seen as promoters of compulsory detention for people who use drugs. In particular, the author warns that easily enforceable compulsory drug detention in combination with weak patient rights is especially problematic in a country with a rampant detention culture.

In his viewpoint "Toward the Emergence of Compulsory Treatment for Drug Use in Morocco?," Khalid Tinasti describes the first compulsory drug treatment order in the country since Morocco's Narcotics Act came into force in 1974. The author considers whether the 2021 ruling of a lower court judge in Kenitra could act as a precedent for the future imposition of compulsory treatment within Morocco's evolving national drug policy landscape. The viewpoint concludes with a call for scaling up harm reduction services, decriminalizing drug use and possession for personal consumption, and repealing legal provisions allowing for forced treatment toward the full realization of human rights for people who use drugs in Morocco.

Critical leverage points for disrupting the status quo

A second cluster of papers and viewpoints reflects on the critical leverage points that can drive change toward ending punitive forms of treatment and realizing human rights protections for people who use drugs. The alternative paradigm offered by this set of papers prioritizes drug decriminalization and accepts that a person must not necessarily give up drug use to access health care and claim their rights. Indeed, the UN system has now joined many policy makers and scholars in calling for decriminalization of drug possession for personal use alongside alternatives to conviction and punishment as an essential step to ending punitive forms of treatment.[7] Such a policy shift should be accompanied by the expansion of a continuum of services provided in the community—from outreach services to low-threshold harm reduction services such as needle syringe programs and opioid agonist therapy, to residential rehabilitation and outpatient psychosocial and mental health support—to respond to individuals' complex and intersectional needs.[8]

In their viewpoint "Not Enough Stick? Drug Detention and the Limits of United Nations Norm Setting," Daniel Wolfe and Roxanne Saucier give their opinion on why national responses to drug detention in Asia have been plagued by inaction.

The authors argue that principal among these has been the lack of sustained advocacy targeted at governments by a range of international stakeholders, including international organizations, donors, civil society, and UN entities. Measurable change, they argue, necessitates a relentless effort and sustained by consistent funding to place ongoing pressure on governments and keep human rights-based alternatives on political agendas.

In the viewpoint "Transitions from Compulsory Detention to Community-Based Treatment: No Transparency without Data, No Accountability without Independent Evaluations," Pascal Tanguay, Anand Chabungbam, and Gino Vumbaca expand on the inaction of governments to close compulsory centers in Asia. They posit that the lack of international sanctions for operating compulsory facilities and absence of incentives to accelerate the implementation of voluntary community-based models have contributed to political inertia on this issue. The paper recommends refining regional and international monitoring mechanisms to strengthen governments' accountability to fulfilling the right to health for all, including people who use drugs. In particular, the authors call for more deliberate efforts to demand government transparency regarding the operation of compulsory centers, including by regularly collecting and publishing data on these facilities and demanding that they be subject to independent external evaluations to gauge their compliance with international human rights standards, in the same way as is expected of other places of detention.

Robert Ali and Matthew Stevens, in their viewpoint "Moving toward Voluntary Community-Based Treatment for Drug Use and Dependence," probe the topic of the transition toward voluntary community-based treatment by exploring the financial, human, technical, and ideological barriers to this process. A key shift, they argue, must occur in the very way in which drugs are perceived. Compulsory treatment, the authors reflect, operates based on a moralistic view that drug use is a character flaw that can be "cured" through various forms of therapy. This view is not only false but also a slippery slope, since dehumanizing people who use drugs can subsequently be used to justify depriving them of their basic human rights. Another area critical to the paradigm shift is the inclusion of structural interventions addressing the social determinants of health—employment, housing, and social connectedness—as part of the drug treatment continuum.

In "Capacity-Building in Community-Based Drug Treatment Services," Michael J. Cole makes a case for strengthening good treatment practices through comprehensive and empowerment-based capacity-building in low-resource settings. Quality treatment provision is largely influenced by the capacity of service providers and has a direct influence on clients' experience of those services. The author presents a step-by-step approach for improving monitoring, evaluation, and reporting service outcomes and promoting research to expand the scale and quality of voluntary evidence-based treatment interventions.

Finally, the virtual roundtable makes a critical contribution to this collection. As part of this roundtable, we brought together 11 global and regional experts from academia and civil society, including people with lived experience of drug use, to take a deep dive into issues surrounding compulsory treatment, health, and human rights. Apinun Aramrattana, Judy Chang, Ma. Inez Feria, Priya Gopalan, Francis Joseph, Karyn Kaplan, Sangeeth Kaur, Gloria Lai, Ajeng Larasati, Samuel Nugraha, and Krisanaphong Poothakool joined us in discussion of their experiences in addressing the issues of compulsory treatment and the mechanisms that sustain them. Their insights from the Asia region and beyond provide answers to some of the tough questions regarding the persistence of compulsory drug treatment modalities and the motivations for governments to maintain them. Discussions highlighted the need for changing the narrative of people who use drugs as "criminals" or "patients" toward humanizing their experiences and normalizing harm reduction measures, which are still lacking in many countries in the region. Civil society voices maintain that there is an urgent need to fund practical evidence-based alternatives with the potential to be culturally adapted and

scaled up across contexts. One such example is Rumah Singgah PEKA in Bogor, Indonesia, which was established in 2010 with a view to providing a drug treatment option that does not require individuals to be abstinent in order to improve their quality of life. Several roundtable participants underscore the importance of holding countries accountable to their international human rights obligations, something the UN Working Group on Arbitrary Detention implements in practice by conducting country visits. The working group also completed a study in 2021 on arbitrary detention that identifies "increasing instances of arbitrary detention as a consequence of drug control laws and policies," which was presented to the Human Rights Council in July 2021.[9]

Conclusion

We hope that readers find this collection useful in their scholarship, practice, and advocacy. Civil society, especially movements of people with lived experience of drug use, and the UN have brought attention to the failure of compulsory treatment to meet the needs and secure the rights of people who use drugs. While the guest editors' own work around ending compulsory treatment and promoting voluntary community-based treatment and care services has focused on the Asia region, we aimed for this issue to reflect a broader global focus. Nevertheless, the focus of most submissions remained on government-run centers in Asia, with some important exceptions. While continued pressure is needed to end compulsory treatment in Asia where such facilities have documented negative consequences, several roundtable participants note that compulsory and punitive treatment practices also occur in other geographical contexts around the world. These practices may be facilitated by governments and nonstate actors alike, including state-endorsed and often unregulated private and faith-based treatment centers. There is both a need and an opportunity for future research to investigate punitive and coercive drug treatment practices in varied geographical settings, including those implemented by nonstate actors. Ultimately, such work will serve to inform more diverse conversations and targeted advocacy to transform harmful drug-related practices.

A shortcoming of this collection is the limited representation of voices of people who use drugs and those with lived experience of compulsory treatment, especially those whose first language is not English, in the pages of this special issue. The barriers for people who use drugs to share their experiences in academic forums such as this journal can be colossal. These barriers are representative of broader socioeconomic inequities, including language barriers, as well as systemic stigma and discrimination, and unequal power dynamics and resources. The voices of people who use drugs must be strengthened and supported toward contributing meaningfully to the development, analysis, and elucidation of rights-based community-led alternatives to compulsory treatment.

Ultimately, this collection demonstrates the centrality of human rights in all discourse around drugs and drug use. Punitive approaches to drug use and treatment, including compulsory detention, will not be eradicated without disrupting the dominant discourse that portrays abstinence as the only acceptable outcome of treatment and characterizes people who use drugs as individuals lacking agency who need to be "cured" in order to resume their social function. A rights-based approach must involve a paradigm shift away from demonizing and criminalizing people who use drugs. It requires dismantling interconnected structural inequalities and barriers such as economic disadvantage, stigma and discrimination, and laws that criminalize drug use or the possession for personal use, and empowering people with lived experience of drug use to shape policies and practices affecting their lives. To shift the paradigm, we must keep having global, regional, and national conversations, funding sustained advocacy efforts, and empowering people whose lives involve drugs.

Acknowledgments

This special issue has been made possible with funding from the Joint United Nations Programme

for HIV/AIDS (UNAIDS) Regional Support Team for Asia and the Pacific and the United Nations Office on Drugs and Crime (UNODC) Regional Office for Southeast Asia and the Pacific.

Disclaimer

The views and opinions expressed in this special section are those of the authors and do not necessarily reflect the views or positions of the guest editors or their affiliated organizations.

References

1. Treatment is considered compulsory if individuals are denied the unconditional right to refuse treatment; if the process for ordering treatment is conducted without due process protections; or if the conditions of treatment violate human rights, including the denial of evidence-based drug treatment and related health and social support services.

2. More information about the UNAIDS-UNODC Asia-Pacific Expert Advisory Group on Compulsory Facilities for People Who Use Drugs can be found at https://unaids-ap.org/ccdu/expert-advisory-group/.

3. United Nations Office on Drugs and Crime and UNAIDS, *Compulsory treatment and rehabilitation in East and Southeast Asia* (Bangkok: UNAIDS Regional Support Team for Asia and the Pacific and United Nations Office on Drugs and Crime Regional Office for Southeast Asia and the Pacific, 2022).

4. United Nations, *Joint statement on compulsory drug detention and rehabilitation centres in Asia and the Pacific in the context of COVID-19* (2020). Available at https://unaidsapnew.files.wordpress.com/2020/05/unjointstatement1june2020.pdf.

5. United Nations, *Joint statement: Compulsory drug detention and rehabilitation centers* (2012). Available at https://unaids-test.unaids.org/sites/default/files/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement6March12FINAL_en.pdf.

6. See World Health Organization Western Pacific Region, *Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: An application of selected human rights principles* (2009); R. Pearshouse, *Compulsory drug treatment in Thailand: Observations on the Narcotic Addict Rehabilitation Act B.E. 2545 (2002)* (Toronto: Canadian HIV/AIDS Legal Network, 2009); Human Rights Watch, *"They treat us like animals": Mistreatment of drug users and "undesirables" in Cambodia's drug detention centers* (New York: Human Rights Watch, 2013); Human Rights Watch, *The rehab archipelago: Forced labor and other abuses in drug detention centers in Southern Vietnam* (New York: Human Rights Watch, 2011); Human Rights Watch, *"Skin on the cable": The illegal arrest, arbitrary detention and torture of people who use drugs in Cambodia* (New York: Human Rights Watch, 2010).

7. United Nations, *Annex 1: United Nations system common position supporting the implementation of the international drug control policy through effective inter-agency collaboration* (2018).

8. United Nations Office on Drugs and Crime, *Guidance for community-based treatment and care services for people affected by drug use and dependence in Southeast Asia* (Bangkok: United Nations Office on Drugs and Crime, 2014).

9. Working Group on Arbitrary Detention, *Arbitrary detention relating to drug policies: Study of the Working Group on Arbitrary Detention* (Geneva: Working Group on Arbitrary Detention, 2021).