

## VIEWPOINT

# Transitions from Compulsory Detention to Community-Based Treatment: No Transparency without Data, No Accountability without Independent Evaluations

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In 2012, the cosponsors of the Joint United Nations Programme on HIV/AIDS (UNAIDS) issued a statement calling for the closure of compulsory drug detention and rehabilitation centers.<sup>1</sup> To accelerate this process, an expert working group—composed of eminent scholars and community leaders—was jointly established in 2014 by the United Nations Office on Drugs and Crime and the UNAIDS Regional Support Team in Bangkok.<sup>2</sup> Citing literature published by civil society, the expert working group reported in 2015 that such centers in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand, and Vietnam were ineffective, unsafe for clients due to human rights violations and transmission of HIV and hepatitis (and more recently COVID-19), costly, insufficiently capacitated, filled with individuals who were not in need of clinical treatment for drug dependence, and operating as an extension of the criminal justice system rather than a mechanism to promote and protect the health and well-being of people who use drugs.<sup>3</sup>

Data on compulsory centers for people who use drugs are rare and difficult to obtain. Published data show that over 475,000 people who use drugs were being detained, often without due process or legal protections, in such facilities in 2018.<sup>4</sup> Reports show that between 2012 and 2018, there was either an increase or no significant decrease in the number of people detained in compulsory centers in Cambodia, China, Lao PDR, Malaysia, the Philippines, Thailand, and Vietnam.<sup>5</sup> Despite guidance and recommendations from the expert working group convened by the United Nations, governments in the region have not reduced their reliance on the compulsory detention of people who use drugs or transitioned toward community-based models.

Programmatic inertia, political and legal paralysis, and financial constraints have prevented the closure of compulsory centers and stalled the transition toward community-based and community-led models.<sup>6</sup>

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Compulsory centers have not closed because the governments that operate them simply do not have to—there has been no incentive to do so, and no negative consequences for keeping them open. This continues to exacerbate the meaningless suffering of people who use drugs and highlights the need for stronger measures to incentivize Asian governments to act decisively to close compulsory centers and to align their drug treatment mechanisms with evidence; with effective and cost-effective models, strategies, and interventions; and with international good practice.

Advocacy efforts must be strengthened, accelerated, and better funded by donors to create pressure that compels effective action. However, doing so will require additional evidence. It is therefore imperative that advocacy efforts urge governments, development partners, United Nations agencies, donors, and other key stakeholders to demand more transparency regarding the operations of compulsory centers. In its 2015 discussion paper, the expert working group specifically called for “improving data collection and monitoring and evaluation of the effectiveness and cost-effectiveness” of compulsory centers and provided sample indicators to do so, noting that “public dissemination of such data on a regular basis would further promote regional cooperation and transparency.”<sup>7</sup> The proposed indicators should be updated, expanded, and integrated into existing national government and donor performance monitoring frameworks.

More importantly, the overarching policies, procedures, and interventions in compulsory centers should be subject to independent evaluations by external experts to generate an objective assessment of the situation in those facilities. To date, very few public documents present reliable evidence about the inner workings or the performance of compulsory centers, and when such reports are published, they are generally released by the agencies that are responsible for managing and maintaining those centers. Such potentially biased reporting cannot be considered appropriate given the clear conflict of interest and mounting international pressure to close such centers. Moreover, policies, procedures,

and interventions in compulsory centers must be regularly and independently evaluated against international guidelines and good practices.<sup>8</sup> Data from regular monitoring and evaluations of compulsory centers should generate a more accurate assessment of the situation and inform advocacy efforts, galvanize action from key stakeholders, and mobilize additional support for a transition toward community-based models and community-led interventions. All relevant data should be reported on an annual basis to UNAIDS and the United Nations Office on Drugs and Crime to track progress and thereby help governments mobilize additional financial resources and technical support to accelerate the transition process.

*A Human Rights Approach to Prison Management: Handbook for Prison Staff*, an influential tool published by the Institute for Criminal Policy Research that promotes the human rights of people deprived of liberty, is explicit on the need for regular monitoring and evaluations of facilities where people deprived of liberty are detained by governments against their will: “Inspection procedures protect the rights of prisoners and their families. They are meant to ensure that proper procedures exist and that they are observed by staff at all times. Inspections should cover all the aspects of prison life.”<sup>9</sup> By logical extension, the recommendations and guidance in the handbook could be considered invaluable for oversight over compulsory centers while they still exist given that people who use drugs in such custodial centers have been forcibly confined, detained, and deprived of liberty against their will by government authorities.

Specifically, several legal instruments—such as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (art. 1), the Convention against Torture (art. 16(1)), the Nelson Mandela Rules (rule 83), and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 29)—recommend “that all prisons and places of detention should be subject to a system of inspection which is independent of the authority responsible for administering those prisons.”<sup>10</sup> Given that these

instruments apply to all places of detention, they should also compel governments that continue to rely on compulsory centers to allow and ensure the implementation of regular and independent evaluations of their operations.

In 2015, the expert working group recommended that countries develop national transition plans—with clear objectives, expected outcomes, monitoring and evaluation indicators, measurable targets, and proposed timelines—to establish effective community-based drug treatment models. Yet as of 2019, since the formulation of the expert committee recommendations, not a single country in Asia has developed a national transition plan.<sup>11</sup> While efforts continue to be implemented to fully close compulsory centers, key stakeholders must ensure that the people who are trapped in these abominable institutions have some measure of protection—especially since most people detained in compulsory centers are more vulnerable than other persons deprived of liberty since they do not have access to legal protections (such as due process, parole, and legal representation) that are granted to persons deprived of liberty in other closed settings managed by the state. While there is growing recognition of the myriad problems created by compulsory centers and intensifying calls for their closure, they remain in operation across Asia. Accordingly, there is a clear need for evaluations, better data, and more transparency from Asian governments so that the agencies responsible for the health and well-being of people who use drugs can be held to account if they systematically fail to meet their own obligations.

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