

VIEWPOINT

Not Enough Stick? Drug Detention and the Limits of United Nations Norm Setting

DANIEL WOLFE AND ROXANNE SAUCIER

A January 2022 report by UNAIDS and the United Nations Office on Drugs and Crime is the first in years to gauge the state of detention in the name of drug treatment in Asia.¹ The report is also a sobering milestone: total numbers in drug detention centers remain essentially the same as 2012, when 12 United Nations (UN) agencies called for their closure.² Vietnam, which had announced a “renovation” of its approach and decreased detention by 25%, has almost returned to previous totals.³ Malaysia has returned to 2012 detention levels.⁴ Cambodia increased the number of people detained by 80% in the years following the UN’s 2012 call.⁵

Gathering data on this subject is a political and administrative challenge, and the analysis by UNAIDS and the UN Office on Drugs and Crime is critically important. Equally important is the need to ask why responses to drug use in Asia have bent toward inaction and regression on the part of governments, rather than toward human rights.

Not enough stick?

Medical anthropologist Richard Parker has observed that the more attention paid to the structural causes of HIV vulnerability, the less bold UN agencies have become in addressing them. He notes that UN agencies have turned instead to “administering the epidemic”—producing reports demonstrating the need for action but failing to rally action themselves.⁶ The same can arguably be said about drug detention—another threat to the health of populations that UN agencies are charged to protect. In 2010, UNAIDS head Michel Sidibe, addressing the International Harm Reduction Conference, declared that “the crimes which are being committed today in the name of drug detention must be denounced.”⁷ But despite establishing norms on voluntary treatment, issuing two strongly worded statements against drug detention, and hosting inter-governmental consultations at regular intervals, UN engagement has brought neither denunciation of bad state actors nor sustained results. No public UN comment came when Vietnam and Malaysia reversed progress and began again to expand drug detention. Despite member state commitments to transition to voluntary treatment at a 2015 UN consultation, failure to honor these commitments has brought neither

DANIEL WOLFE, MPH, is an independent researcher.

ROXANNE SAUCIER, MPH, is a consultant for the Open Society Foundations.

Please address correspondence to Daniel Wolfe. Email: dw2024@caa.columbia.edu.

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censure nor penalty.⁸

Past actions taken by the UN and member states against drug detention did not arise spontaneously but emerged following concerted advocacy. At international conferences beginning in 2009, people who use drugs offered testimony of forced labor and inhuman and degrading treatment to audiences that included members of their governments and UN agencies. Activists at the 2009 International Harm Reduction Conference in Bangkok took the stage carrying banners calling for “treatment, not torture.” Human Rights Watch, the Open Society Foundations, and Harm Reduction International all issued reports documenting violations of human rights and international law in Asian drug detention centers.⁹

Importantly, advocacy also “followed the money,” using the withdrawal of financial support or its threat as a lever for change. Some reports turned the mirror to Western donors and the UN, documenting the use of UNICEF vans to transport children to detention, or of US aid to “build capacity” of detention center staff or construct centers themselves.¹⁰ By 2014, the UN Office on Drugs and Crime and the Global Fund to Fight AIDS, Tuberculosis and Malaria had both issued policies withdrawing support for detention centers.¹¹ In Vietnam, where “rehabilitation” included hours of unpaid labor in the service of private companies, campaigners raised the specter of the interruption of international trade. Human Rights Watch documented forced labor for the Vietnamese cashew industry, then accounting for US\$1.4 billion in annual exports.¹² The American Apparel and Footwear Association wrote to Vietnamese officials, expressing concern about forced labor in the supply chain of a major exporter to the United States.¹³ Concern about Vietnam’s drug detention centers was included in a 2013 US Department of Labor report.¹⁴ Marked decreases in detention followed.

There are lessons here not just for UN agencies but for civil society advocates and donors—including the authors, both of whom worked to end drug detention while employed by the Open Society Foundations. Principal among these is the importance of continued outside pressure to force change.

The multipolar advocacy on drug detention was not sustained. UN agencies continued intergovernmental consultations, but for seven years refrained from documenting numbers of people detained in the centers. The unit at Human Rights Watch that had rigorously followed the issue, producing seven investigations on drug detention in six years, shifted focus and was disbanded. We at the Open Society Foundations turned attention to abuses in privately run centers in Latin America. Perhaps most importantly, pressure on the key lever of labor, with implications for billions of dollars in international trade, was not maintained.

At the same time that advocates eased off the “stick,” the “carrot” was also lacking. Organizations documenting abuses in drug detention had no resources to fund alternatives. The Global Fund and the US President’s Emergency Plan for AIDS Relief prioritized investment in methadone prescription to reduce injection and HIV risk: treatment for stimulant users, who now account for the majority of Asian detainees, was not as robustly funded. As a Vietnamese official commented to the authors during a 2014 visit, “You people [Western donors] told us our house is so ugly we should tear it down. But now that it’s time to build another, you offer little help.” Governments in the region apparently found little incentive to reallocate their own resources: the new UN report finds that some spend up to 77% of their drug dependence treatment budget on detention.¹⁵

Doing better

UN representatives at the release of the 2022 report emphasized that the “time is now” to take action. While the time was arguably “then,” now is indeed a time to avoid setbacks of the past. Ongoing reporting on numbers of detainees, and pointed comment when negative trends emerge, is essential.

Monitors should continue to follow the money. As UN Office on Drugs and Crime representative Jeremy Douglas noted at the January 2022 report launch, drug detention commands substantial resources, which will not be easily relinquished by those who control them. Budget monitoring, and

mechanisms for government to support groups providing genuinely community-based treatment, will also be critical.

The case calls for continued public censure. International response to internment and forced labor imposed by China on the Uighurs—including bans on imports, and public condemnation from politicians and celebrities—is instructive. While the sweep of China’s rights violations against the Uighurs is particularly appalling, the tactics—including detention, forced labor, and compulsory reeducation—are the same China employs for people who use drugs.¹⁶

Finally, we must reckon the cost of failure to engage. As Martti Koskeniemi has warned, a political culture that “insists that rights are foundational ... but in practice constantly finds that they are not, becomes a culture of bad faith”—and one that alienates political engagement.¹⁷ This is terrible not just for the nearly 500,000 people detained in the name of drug rehabilitation in Asia but for the human rights field and the wider body politic.

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