



CHINA

# “Where Darkness Knows No Limits”

Incarceration, Ill-Treatment, and Forced Labor as Drug Rehabilitation in China

HUMAN  
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Drug Rehabilitation in China**

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Human Rights Watch  
350 Fifth Avenue, 34th floor  
New York, NY 10118-3299 USA  
Tel: +1 212 290 4700, Fax: +1 212 736 1300  
hrwnyc@hrw.org

Poststraße 4-5  
10178 Berlin, Germany  
Tel: +49 30 2593 06-10, Fax: +49 30 2593 0629  
berlin@hrw.org

Avenue des Gaulois, 7  
1040 Brussels, Belgium  
Tel: + 32 (2) 732 2009, Fax: + 32 (2) 732 0471  
hrwbe@hrw.org

64-66 Rue de Lausanne  
1202 Geneva, Switzerland  
Tel: +41 22 738 0481, Fax: +41 22 738 1791  
hrwgva@hrw.org

2-12 Pentonville Road, 2nd Floor  
London N1 9HF, UK  
Tel: +44 20 7713 1995, Fax: +44 20 7713 1800  
hrwuk@hrw.org

27 Rue de Lisbonne  
75008 Paris, France  
Tel: +33 (1) 43 59 55 35, Fax: +33 (1) 43 59 55 22  
paris@hrw.org

1630 Connecticut Avenue, N.W., Suite 500  
Washington, DC 20009 USA  
Tel: +1 202 612 4321, Fax: +1 202 612 4333  
hrwdc@hrw.org

Web Site Address: <http://www.hrw.org>



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## **“Where Darkness Knows No Limits”**

### **Incarceration, Ill-Treatment and Forced Labor as Drug Rehabilitation in China**

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## Summary

*“In detox there are no human rights, people just die.”*

—Former detainee Li, Yunnan, 2009

In June 2008, China’s first comprehensive law on narcotics control, the Anti-Drug Law of the People’s Republic of China, took effect. This law calls for the rehabilitation of illicit drug users. Drug users are subject to administrative, not criminal, penalties. Yet, the Chinese government routinely incarcerates—without trial or judicial oversight—individuals suspected of drug use for up to six years in drug detention centers. Instead of addressing the problem of drug abuse in China by offering voluntary, medically-based drug treatment, the Anti-Drug Law compounds the health risks of suspected drug users while abusing the rights guaranteed to them under Chinese and international law. In detention, they receive little or no medical care, no support for quitting drugs, and no skills training for re-entering society upon release. In the name of treatment, many suspected drug users are confined under horrific conditions, subject to cruel, inhuman and degrading treatment, and forced to engage in unpaid labor. Multiple former detainees interviewed by Human Rights Watch said that these abuses had resulted in deaths in detention.

At the same time that drug users suffer these abuses in detention centers, the Chinese government promotes more progressive policies that embrace some harm reduction strategies as part of a pragmatic response to high rates of drug use and HIV/AIDS. Partnering with local and international nongovernmental organizations (NGOs), the Chinese government has expanded community-based methadone therapy and needle exchange programs. A statement released by the Office of China National Narcotics Control Commission in June 2008 declared that “drug treatment and rehabilitation is in accordance with human-centered principles.” In March 2009 a high-ranking government official stated, “The Chinese Government maintains that drug treatment and rehabilitation should proceed in a people-oriented way.” The reality facing many drug users, as documented in this report, exposes the contradiction between Chinese government rhetoric regarding its approach to illicit drug use and the abusive impact of its policies.

Undermining these progressive and “human-centered” approaches are increasingly punitive and harsh law enforcement practices that continue to favor the detention and confinement of drug users over the delivery of effective, voluntary, and community-based, outpatient drug treatment. The focus of this report is the human rights abuses related to China’s first comprehensive law on narcotics control, the Anti-Drug Law of the People’s Republic of China, which took effect in June 2008. The law expands police power and removes legal protections

from people suspected of drug use, ultimately reinforcing the government's response to drug use as a matter for law enforcement and not medical treatment. The government has described the Anti-Drug Law as a more humane strategy towards curbing illicit drug use, ending sentences to re-education through labor (RTL) centers for drug users and including greater protections for people detained in drug detention centers. However, ambiguous language outlining these protections and significantly longer sentences to compulsory drug detention, have resulted in greater threats to the rights of drug users under the new law.

Two years after Human Rights Watch conducted research in China's Guangxi province in 2007 (described in our report "Unbreakable Cycle"), we investigated human rights and health conditions of former and current drug users in Yunnan province. This report looks at conditions both inside mandatory drug detention centers and in the community in light of the 2008 Anti-Drug Law. We found that despite this new law, conditions in drug detention centers in Yunnan are as inhumane and as far removed from drug "treatment" as were those in Guangxi two years earlier.

The Anti-Drug Law is continuing and extending the abuses of RTL, simply under another name. The new law increases the incarceration time in compulsory drug detention centers, from the previously mandated six to twelve months, to a minimum of two years. The egregious abuses in RTL centers that were the focus of external criticism (forced labor, physical abuse, and the denial of basic health care) are replicated in compulsory drug detention centers. Moreover, after two years, individuals in drug detention centers may be forced to stay for a third year, depending on the "success" of the treatment. Following two or three years in drug detention centers, the law provides for a period of "community based" treatment for up to three years. What constitutes community-based treatment is not clear in the law and has been interpreted in diverse ways in different parts of China, including the continued detention of drug users in detention centers. The result is that for a single alleged incident of illicit drug use or possession, a suspected drug user may be subjected to incarceration and forced labor for six years.

The Anti-Drug Law's ambiguous language on health and rehabilitation facilitates the routine and systematic violation of the fundamental rights of suspected drug users by government officials and security forces. The law's vague definitions of clinical terms such as "addiction", "treatment", "success", and "community rehabilitation" have effectively provided local authorities extremely wide scope regarding who to take into custody, on what legal basis, where to detain them, and for how long.

For example, the Anti-Drug Law gives police wide discretionary power to detain people for alleged drug use, search them for drugs as well as to subject them to urine tests for drug use,

without having to have a reasonable suspicion that an offense was committed. The law also empowers the police, rather than medical professionals, to make a determination on the nature of the “addiction” and to subsequently assign suspected drug users to drug detention centers without due legal process or even evidence of current drug dependence or use.

Although the Anti-Drug Law specifies that the objective of drug detention centers is the treatment of drug dependence and the law officially refers to detainees as “patients,” the detention centers are managed by the Public Security Bureau and run by the local police.

Former detainees told Human Rights Watch that while incarcerated they had no access to drug dependency treatment, drug use inside was frequent, and decisions about release were arbitrary, not based on “successful treatment,” and not made by medical professionals. As one detainee told Human Rights Watch, “There is absolutely no support for quitting drugs inside detoxification centers; factory work is all there is.”

On paper the Anti-Drug Law aims to tackle these severe shortcomings in effective rehabilitation for drug users. Reforms that deal specifically with rehabilitation and treatment are the cornerstones of the Anti-Drug Law. These reforms are intended to strengthen overall drug treatment and improve rehabilitation centers in particular. According to the Office of China National Narcotics Control Commission, the reforms in the Anti-Drug Law on mandatory detoxification are “in line with scientific principles and time requirements about drug treatment, guarantee legally the three necessary stages in drug treatment: 1) physical detoxification, 2) mental rehabilitation and 3) social integration.” However, the law offers only nebulous guidelines and provides no specifications on how these “necessary stages” could or should be achieved. During field research for this report Human Rights Watch found that current practices in drug detention centers guarantee none of these three stages.

While the Anti-Drug Law purports to protect the health of people confined in mandatory drug detention centers, the reforms stop far short of prescribing specific protections. Many detainees are in poor health when they begin the detoxification sentence; an alarmingly high percentage are HIV positive and have tuberculosis (TB). Mandatory HIV testing for detainees is still routine practice and those who are found to be HIV positive are not told of their HIV status. Some former detainees who knew they had AIDS and were already taking antiretroviral (ARV) drugs when they were incarcerated reported that their treatment was terminated upon confinement. Those detainees who were able to continue to take ARV reported that there was no medical supervision, such as regular doctor visits or lab monitoring tests.

Former detainees in Yunnan told Human Rights Watch that while in drug detention centers they were beaten and made to work up to 18 hours daily in wretched conditions without pay. Multiple sources told Human Rights Watch that detainees are consistently denied access to basic medical care. Former detainees in Yunnan report that TB is common, and untreated, among detainees. Former detainees and local NGO workers interviewed in Yunnan told Human Rights Watch that when detainees become critically ill they are routinely released, without referral to health care and with few resources to access care on their own. Far from protecting the health of detainees, the policies and practices of these “treatment” and “rehabilitation” centers systematically endanger their health and well-being.

In our 2008 report, Human Rights Watch documented what former detainees described as an “unbreakable cycle” of incarceration, unbearable stigmatization when released back into the community, unemployment, discrimination, poor health, and finally, in hopelessness, a return to drug use. Our current research found that this endless cycle continues. While the Anti-Drug Law purports to make the reintegration of drug users into society a priority, policies alerting the police when a former detainee checks into a hotel, applies for a job or registers for harm reduction services reinforces the overwhelming stigma they already face.

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With a minimum sentence of two years, incarceration in a drug detention center goes far beyond the period of what is necessary for physical detoxification and serves as punishment only. Mandatory drug detention centers effectively serve as incubators for infectious diseases, actively contribute to the poor health of detainees, and violate both Chinese and international law.

The Chinese government's treatment of illicit drug users, including those who are HIV positive, violates China's obligations under international human rights law. Under the International Covenant on Economic, Social and Cultural Rights (ICESCR), China is obliged to respect the right of everyone to “the enjoyment of the highest attainable standard of physical and mental health.” With respect to the right to health of persons in custody, international standards provide that prisoners (and other detainees, such as drug users confined for treatment) are entitled to a standard of health care equivalent to that available in the general community, without discrimination based on their legal status.

Under the International Covenant on Civil and Political Rights (ICCPR), to which China is a signatory, the government is obliged to provide protection for all persons from arbitrary arrest and detention, ensure humane conditions of detention, and meet international fair trial standards. Instead, detainees are subjected to cruel, inhuman and degrading treatment



and endure poor conditions in detention. China's mandatory drug detention centers also violate international prohibitions on the use of unpaid forced labor.

Chinese government rhetoric about “human-centered treatment” for drug users is empty. Rather than increasing and ensuring protections for suspected drug users, Human Rights Watch found that the 2008 Anti-Drug Law is perpetuating human rights abuses. The “unbreakable cycle” we documented in Guangxi in 2007 is just as insidious in Yunnan: people we interviewed described an endless struggle with addiction, incarceration, discrimination and hopelessness. People broke down as they recounted their experiences, recalling physical and emotional abuse in compulsory detention centers, fear and horror at a diagnosis of HIV, and constant discrimination by police, within their community and among their own families.

The Anti-Drug Law contains specific protections and obligations, not only to protect people in detention from physical abuse and exploitation, but also to provide evidence-based drug treatment and vocational training. These promises, if kept, would be a step towards the longer-term treatment and well-being of drug users, but they don’t go far enough. While the Chinese government must implement and uphold these protections, a more effective and comprehensive step would be to immediately shut down compulsory drug detention centers and provide voluntary, community-based outpatient drug dependency treatment for people who use drugs.

Human Rights Watch calls on the government of China to make good on its promises in the Anti-Drug Law to establish effective voluntary, community-based outpatient drug treatment centers that are run by medical professionals and based on best practices for treatment.

## **I. Recommendations**

### **To Chinese Government Ministries of Public Security, Justice, Interior, and Health**

#### *Regarding drug detention centers*

- Immediately close all compulsory drug detention centers.
- Expand access to voluntary, affordable, community-based outpatient drug dependency treatment. Provide adequate compensation and medical care to detainees and former detainees for harm to their physical and mental health suffered while in detention.
- Until such drug detention centers are closed:
  - Provide due process protections and judicial oversight to sentencing for drug users assigned to detention or community rehabilitation.
  - Ensure that proper regulations and monitoring are in place to prevent the physical and sexual abuse of detainees by guards.
  - Appropriately discipline or prosecute government officials, public security personnel and their agents who are responsible for the ill-treatment of detainees.
  - Ensure access to drug dependency treatment, antiretroviral therapy, and health care generally. End compulsory HIV testing and ensure voluntary counseling and testing is available. Ensure that all detainees testing positive for active tuberculosis are isolated and treated appropriately.
  - Ensure that medical staff working in drug detention centers have proper training to develop an individualized treatment approach for detained drug users and provide effective medical and psychological therapy.
  - Eliminate fees for periods in compulsory drug detention centers.
  - End forced labor in drug detention centers.

#### *Regarding community-based interventions with drug users*

- Ensure that law enforcement agencies accept harm reduction initiatives and refrain from arresting or harassing people seeking harm reduction services.
- Require, by law, informed consent and doctor-patient confidentiality for those tested for HIV. Require that anyone tested for HIV/AIDS be informed promptly of the results and that appropriate counseling be offered before and after the test.

- Ensure that injection drug users can seek testing and treatment for HIV/AIDS without being detained on suspicion of being a drug user.
- Provide training to Chinese Center for Disease Control and Prevention HIV/AIDS treatment site staff on confidentiality, stigma and discrimination, and related subjects.
- Immediately end the harassment and arbitrary arrest and detention of HIV/AIDS activists working to protect the rights of suspected and convicted drug users and people living with HIV/AIDS.

### *Regarding the Anti-Drug Law*

- Establish implementing guidelines for the Anti-Drug Law. These guidelines should detail specific procedures for enforcing and asserting all the legal protections that are included in the law. Ensure that the implementation of this law is standardized throughout China.
- Ensure that local officials receive training in the proper implementation of the Anti-Drug Law. Ensure that local officials are appropriately held accountable for violating the rights of individuals in violation of the law.
- Develop clear and standardized guidelines on the role of community-based detoxification and treatment in treating drug addiction.
- Abolish the practice of forced urine tests except where based on reasonable suspicion of drug use in accordance with the law. “Reasonable suspicion” should not include known past use.
- Ensure that medical professionals play an integral role in diagnosing and treating drug users.
- Protect the privacy and medical confidentiality of drug users in all public spaces.
- Remove drug dependency information from national identity cards (*shengfenzheng*).
- Prevent discrimination against drug users in pursuing employment, medical attention, housing, or the use of the national identity cards.
- Specify procedural mechanisms for addressing discrimination against people who use drugs.

## **To United Nations Agencies and International Donors Providing Assistance or Carrying Out Programs on HIV/AIDS in China**

- Call for the closure of compulsory drug detention centers.
- Call for an investigation of abuses at compulsory detention centers and demand that the Chinese government punish the perpetrators of ill-treatment and provide victims with reasonable compensation.
- Ensure that the principles set out in the UN International Guidelines on HIV/AIDS and Human Rights, particularly those relating to discrimination and compulsory testing, are adhered to and are a part of all collaborative agreements with government agencies.
- Insist upon adjustments in existing working agreements with Chinese partners to ensure independent monitoring of joint programs to prevent discrimination against people with HIV/AIDS and end abusive conditions in compulsory detention centers.
- Advocate for the reform of national, provincial, and local laws and regulations on AIDS that discriminate against people living with HIV/AIDS.
- Advocate for the rights to freedom of expression, information, assembly, and association for people living with HIV/AIDS in China and organizations acting on their behalf.
- Incorporate into monitoring and evaluation frameworks mandatory reporting of human rights abuses against individuals in drug detention centers.
- Give greater emphasis to programs related to counseling and legal services for people living with HIV/AIDS.
- Distribute Chinese translations of the UN International Guidelines on HIV/AIDS and Human Rights.

## II. Methodology

Human Rights Watch conducted research for this report in Beijing, Yunnan province and Guangxi province in 2009. We interviewed 33 current and former illicit drug users—20 males and 13 females—all of whom had served at least one sentence in an RTL center or a drug detention center. Former detainees who spoke with Human Rights Watch, who were identified by local NGOs working with current and former drug users, had not been incarcerated under the 2008 Anti-Drug Law. However the majority of interviewees had first-hand experience with the impact of the Anti-Drug Law through encounters with police whose powers of search and seizure have been expanded under the law. We also spoke with 25 individuals working for local and international nongovernmental organizations working on issues regarding the rights and health of former and current drug users and people living with HIV/AIDS.

Interviews were conducted in English and Chinese. All participants provided oral informed consent to participate and were assured anonymity, including key sources who uniformly requested it as a precondition for providing information. Interviews were conducted in private and individuals were assured that they could end the interview at any time or decline to answer any questions without any negative consequence. Interviewees were also invited to submit written accounts of their experiences. All names of people interviewed and quoted in this report have been changed to protect their identity and for their security.

The report also draws on an analysis of the Chinese Anti-Drug Law, Chinese academic research, studies by domestic Chinese human rights organizations, and published accounts in both Chinese domestic and international media of the law and conditions in drug detention centers. Human Rights Watch did not interview Chinese government officials due to concerns that the sensitivity of the topic might pose a risk to the security of both interviewer and interviewees.

### Explanation of Terminology

In this report we are using the term “compulsory drug detention center” rather than the Chinese language term “compulsory detoxification center,” *qiang zhi jie du suo* (强制戒毒所). Detoxification is the process of allowing the body to rid itself of a drug while managing the symptoms of withdrawal. Detoxification from heroin dependence may take a period of days to several weeks. Because Chinese drug detention centers do not manage the symptoms of withdrawal, and because periods of detention are far longer than the period necessary for detoxification, we feel the term “detoxification” is inaccurate and misleading.

### III. Background

#### Illicit Drug Use in China

At the time of the founding of the People's Republic of China in 1949, it was estimated that 20 million people used opium.<sup>1</sup> The newly formed communist government launched a widespread campaign to eradicate drug use that included the execution of those involved in the cultivation, manufacture or sale of opium. It also included compulsory "treatment" for opium users, which consisted of a period of abstinence from drug use as well as "vocational training", which consisted of forced labor.<sup>2</sup>

Illicit drug use is still a significant problem in China. While there are 1.16 million registered drug users,<sup>3</sup> recent estimates suggest that there are as many as 5 million illicit drug users<sup>4</sup> of whom nearly 9 in 10 are believed to inject heroin.<sup>5</sup> Although the Chinese government has asserted that injection drug use in China is decreasing,<sup>6</sup> researchers from Peking University cite an increasing popularity of intravenous administration of heroin.<sup>7</sup>

#### Chinese Government's Response to Drug Use

Chinese law has long required that drug users be rehabilitated.<sup>8</sup> Historically this "rehabilitation" has taken the form of extended confinement of drug users in detention centers (including compulsory drug detention and "re-education through labor" (RTL) centers), which Chinese law requires to provide psychological and medical therapy for drug dependency. Despite official rhetoric about medical treatment, including referring to detainees as "patients," these centers offer no health-based drug dependency treatment. Instead detainees undergo, at best, a period of forced abstinence from drug use where, in

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<sup>1</sup> L Liu, Y Fang, and X Wang, "Drug Abuse in China: Past, Present and Future," *Cell Molecular Neurobiology*, vol. 29, 2008, p. 481.

<sup>2</sup> Ibid.

<sup>3</sup> Z. Wu, SG Sullivan, Y Wang, MJ Roteram-Borus, and R Detels, "Evolution of China's response to HIV/AIDS," *Lancet*, 2007, vol. 369, pp. 679-690.

<sup>4</sup> The Global Fund to Fight AIDS, Tuberculosis and Malaria, "Reducing HIV Transmission Among and From Vulnerable Groups and Alleviating its Impact in Seven Provinces in China," Grant No. CHN-405-G05-H, 2004, pp. 6,

<sup>5</sup> National Institute on Drug Dependence and Drug Abuse Surveillance Center, "Report of Drug Surveillance 2003," Beijing: NDASC, NIDD, 2003.

<sup>6</sup> Office of China National Narcotics Control Commission, "China's Drug Control Efforts," Office of China National Narcotics Control Commission, June 25, 2008.

<sup>7</sup> L Liu, Y Fang, and X Wang, "Drug Abuse in China: Past, Present and Future," *Cell Molecular Neurobiology*, vol 29, 2008, p482.

<sup>8</sup> Although drug users have long been subject to forced detoxification, the State Council's "Methods for Forced Detoxification" in 1995 was the first official law regulating the rehabilitation of drug users in compulsory closed settings.

lieu of receiving medical or mental health counseling, they perform unpaid compulsory labor for up to 18 hours a day often in inhumane conditions.<sup>9</sup>

Between 1995 and 2000, China quadrupled its capacity to provide compulsory drug detention.<sup>10</sup> By 2005, when then Minister of Public Security Zhou Yongkang announced a new “people’s war on illicit drugs” with a major goal of increasing the number of people sent to compulsory drug detention and RTL centers,<sup>11</sup> there were an estimated 350,000 individuals in RTL and compulsory drug detention centers.<sup>12</sup> Current estimates of the number of drug users in detention vary; a 2009 UNAIDS report estimated that there are now approximately 500,000 people undergoing compulsory drug detention at any one time in China.<sup>13</sup>

In the past five years the Chinese government has taken some progressive steps toward a treatment approach to drug addiction. In 2004, 34 methadone clinics were opened in five provinces. By 2009, more than 600 methadone clinics had been opened in 22 provinces.<sup>14</sup> In 2007, to increase access to methadone, the Chinese government abolished regulations that limited access to community-based methadone treatment to individuals who had been previously detained in drug detention centers. By August 2007 the government estimated that it had treated 47,427 drug users in methadone clinics, and promoted an ultimate goal of treating 200,000 drug users in 1,000 clinics.<sup>15</sup> Although ambitious, this figure represents only 4 percent of the estimated 4.5 million injection opiate users. The Chinese government also piloted needle exchange programs in areas with high rates of HIV/AIDS. At the end of 2007 there were an estimated 192 needle exchange programs in China, up from 92 a year earlier.<sup>16</sup> According to a May 2009 UNAIDS report, there are more than 1,000 needle exchange sites.<sup>17</sup>

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<sup>9</sup> Human Rights Watch, “An Unbreakable Cycle: Drug Dependency Treatment, Mandatory Confinement, and HIV/AIDS in China’s Guangxi Province,” December 2008, <http://www.hrw.org/en/reports/2008/12/09/unbreakable-cycle-o>

<sup>10</sup> Y He and N Swanstrom, “China’s War on Narcotics: Two Perspectives,” (Washington, DC.: Central Asia-Caucasus Institute and Silk Road Studies Program, 2006).

<sup>11</sup> National Narcotics Control Commission (NNCC), “Annual Report on Drug Control in China,” (Beijing: Beijing NNCC, 2006) [in Chinese].

<sup>12</sup> Human Rights Watch, “An Unbreakable Cycle: Drug Dependency Treatment, Mandatory Confinement, and HIV/AIDS in China’s Guangxi Province,” December 2008, <http://www.hrw.org/en/reports/2008/12/09/unbreakable-cycle-o>

<sup>13</sup> UNAIDS May 2009 Report, “AIDS in China: background information on the epidemic and the response,” unpublished document on file with Human Rights Watch, May 2009, p. 8.

<sup>14</sup> M. Hongwei, “Statement by Vice Minister of Public Security Mr Meng Hongwei at the High-Level Segment of the 52<sup>nd</sup> Session of Commission on Narcotic Drugs,” 12 March 2009, <http://www.mfa.gov.cn/eng/errorpath/t542014.htm> (accessed September 10, 2009).

<sup>15</sup> Lu, Lin, Zhao, Dong, Bao, Yan-ping and Shi, Jie, (2008), “Methadone Maintenance Treatment of Heroin Abuse in China,” *The American Journal of Drug and Alcohol Abuse*, 34:2, pp. 127-131.

<sup>16</sup> Human Rights Watch interviews with key informants, Yunnan, 2009.

<sup>17</sup> UNAIDS UNAIDS May 2009 Report, “AIDS in China: background information on the epidemic and the response,” unpublished document on file with Human Rights Watch, May 2009, p. 8.

Despite these positive steps, increasingly punitive law enforcement approaches have undermined health-based drug addiction treatment. According to Human Rights Watch research from 2007, police in Guangxi province routinely arrested people who use drugs to fulfill departmental arrest quota targets. Such arrests are particularly frequent ahead of and during “sensitive” calendar dates, including the International Day against Drug Abuse and Illicit Trafficking, the run-up to the 2008 summer Olympics in Beijing, and the 60<sup>th</sup> anniversary of the founding of the People’s Republic of China in October 2009. Former detainees and NGO officials told Human Rights Watch that ahead of such dates, police will wait near methadone clinics and pharmacies to arrest people who are accessing harm reduction services in full compliance with Chinese law.

## **Anti-Drug Law of the People’s Republic of China**

In June 2008, the Anti-Drug Law of the People’s Republic of China (“Anti-Drug Law”) came into effect. China’s first comprehensive law on narcotics control and deemed a “milestone in China’s drug control history,”<sup>18</sup> the Anti-Drug Law is a broad document that touches on many aspects of drug policy, from international drug trafficking to drug education in the community. According to article 1 of the law’s general provisions:

This Law is enacted for the purpose of preventing and punishing criminal offenses related to narcotic drugs, protecting the health of citizens both in body and in mind and maintaining social order.<sup>19</sup>

At the time of its entry into force, there was hope that the Anti-Drug Law would provide increased protection for the rights of people suspected of drug use. The Vice Minister of Public Security announced that the provisions in the Anti-Drug Law are “people oriented”<sup>20</sup> and a statement released by the China National Narcotics Control Commission at the time of implementation declares that the reforms “on the mechanism of drug treatment and rehabilitation are in accordance with the human-centered principle.”<sup>21</sup>

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<sup>18</sup> Office of China National Narcotics Control Commission, “Significance and Content of the Narcotics Control Law,” June 25, 2008, p2. <http://www.china.org.cn/e-news/newso80625-3.htm> (accessed September 9, 2009).

<sup>19</sup> Anti-Drug Law of the People’s Republic of China (“Anti-Drug Law”), No. 79 of 2008, chapter I, art 1. This is an unofficial translation of the Anti-Drug Law circulated among NGOs and cross-checked by Human Rights Watch for accuracy.

<sup>20</sup> M. Hongwei, “Statement by Vice Minister of Public Security Mr Meng Hongwei at the High-Level Segment of the 52<sup>nd</sup> Session of Commission on Narcotic Drugs,” 12 March 2009.

<sup>21</sup> Office of China National Narcotics Control Commission, “Significance and Content of the Narcotics Control Law,” June 25, 2008, p2. <http://www.china.org.cn/e-news/newso80625-3.htm> (retrieved September 9, 2009.).



### Key Points of the Anti-Drug Law of the People's Republic of China

- Expands police power to detain individuals, without a reasonable suspicion of drug use, for the purpose of conducting compulsory urine tests.
- Increases the minimum sentence to a compulsory drug detention center from six-to-twelve months to two-to-three years.
- Adds an undefined “community-based rehabilitation” period of up to three years following confinement in a compulsory drug detention center.
- Prohibits incarceration in RTL centers for drug use or possession.
- Includes broad provisions to protect the health and human rights of people suspected of drug use, but provides no implementing guidelines or procedural mechanisms to ensure the provisions are implemented in a standardized and appropriate way.

Despite government claims that the Anti-Drug Law protects the rights and health of suspected drug users, in practice the law unduly expands police powers and removes protections for people suspected of drug use. The law's ambiguous language gives local authorities wide scope to deal with suspected drug users as they see fit. Local police are empowered to detain people for the purpose of conducting compulsory urine tests without a reasonable suspicion of drug use.<sup>22</sup> A person sentenced under the law is permitted to appeal,<sup>23</sup> but no process for appeals is articulated in the law, and multiple sources told Human Rights Watch that due process rights – such as to contest one's detention before a court and be represented by legal counsel – are still routinely denied.<sup>24</sup>

The detention of drug users without charge or trial violates basic principles of international law. The International Covenant on Civil and Political Rights (ICCPR), to which China is a signatory, provides that any person "deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."<sup>25</sup> The UN Human Rights Committee, which monitors compliance with the ICCPR, has interpreted this provision to apply "to all deprivations of liberty, whether in criminal cases or in other

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<sup>22</sup> Anti-Drug Law, chapter IV, art 32. Public security organs are entitled to conduct tests on, and detain, persons suspected of using narcotic drugs.

<sup>23</sup> Anti-Drug Law, chapter IV, art. 40. Persons dissatisfied with the public security organ's decision are entitled to apply for administrative reconsideration and bring the case to court.

<sup>24</sup> Chinese NGO workers and former detainees [names withheld] in Yunnan province interviewed by Human Rights Watch that due process rights are routinely denied.

<sup>25</sup> ICCPR, art. 9(4).

cases such as, for example, mental illness, vagrancy, drug addiction, educational purposes, immigration control, etc."<sup>26</sup>

After a person is sentenced for drug use, according to the Anti-Drug Law, "the State takes various measures to help drug users overcome drug addiction and enlighten them and help them cure their addiction."<sup>27</sup> The central feature of this "help" from the state is confinement for two to six years in compulsory drug detention centers and community rehabilitation. The Chinese government's primary justification for the increase of confinement time in compulsory drug detention centers from the previous two years is that the treatment regimen for drug users requires more time. A statement from the Office of China National Narcotics Control Commission reads:

The relevant provisions [of the Anti-Drug Law] meet the needs of necessary treatment period by prolonging the legal drug treatment period.<sup>28</sup>

The Anti-Drug Law reaffirms and strengthens the key role of compulsory drug treatment centers in the rehabilitation process with reforms that deal specifically with compulsory drug detention. These reforms are framed as strengthening overall drug treatment and improving conditions in rehabilitation centers in particular. A statement released by the Office of China National Narcotics Control Commission in June 2008, asserts, "These reforms are in line with scientific principles and time requirements about drug treatment, guarantee legally the three necessary stages in drug treatment, namely physical detoxification, mental rehabilitation and social integration."<sup>29</sup>

In fact these new reforms do not guarantee any of the three "necessary stages." Although the Anti-Drug Law makes reference to medical treatment regulations formed by the State Council, these regulations have been in place since 1995 and have, as yet, failed to provide China with a nationally standardized regimen on drug dependency treatment and psychological counseling.

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<sup>26</sup> UN Human Rights Committee, General Comment 8, (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies; U.N. Doc. HRI/GEN/1/Rev.1(8), 1994, art. 9. Article 14 of the ICCPR provides basic fair trial rights, including the right to a public hearing and to be presumed innocent until proven guilty. The UN Body of Principles for the Protection of All Persons Under Any Form of Detention similarly provides that persons "not be kept in detention without being given effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law." Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) <http://www1.umn.edu/humanrts/instrree/g3bppedi.htm> (accessed November 13, 2008).

<sup>27</sup> Anti-Drug Law of the People's Republic of China, No. 79 of 2008, chapter IV, art 31.

<sup>28</sup> Office of China National Narcotics Control Commission, "Significance and Content of the Narcotics Control Law," June 25, 2008.

<sup>29</sup> Office of China National Narcotics Control Commission, "Significance and Content of the Narcotics Control Law," June 25, 2008, p3. <http://www.china.org.cn/e-news/newso80625-3.htm> (retrieved September 9, 2009.).

Although the Anti-Drug Law purports to provide for medical treatment for drug addiction, medical professionals are not making the key treatment decisions. According to article 38 of the Anti-Drug Law, decisions on the severity of the “drug addiction” are made by officials of the security agencies rather than by medical professionals.<sup>30</sup> Article 38 reads: “With respect to a person who is seriously addicted to narcotic drugs and is difficult to be cured of such addiction through treatment in the community, the *public security organ* may directly make a decision on his compulsory isolation for drug rehabilitation.”<sup>31</sup>

Article 43 of the Anti-Drug Law specifically addresses drug treatment:

The compulsory isolation center for drug rehabilitation shall, in light of the kind of narcotic drugs that a drug addict ingests or injects and the degree of his addiction, etc., give him physiological or psychological treatment or physical rehabilitation training, as the case may be.<sup>32</sup>

As article 38 of the Anti-Drug Law empowers the public security organ to judge the nature and severity of the addiction, it is unclear how the provisions in article 43 could be fulfilled. Without medical staff to work with and evaluate every detainee, it is impossible to assess the detainee’s “degree of...addiction” or determine what “physiological or psychological treatment or physical rehabilitation training” is appropriate.

Although the Anti-Drug Law frequently refers to “drug treatment” for drug users, multiple sources told Human Rights Watch that treatment is not provided; rather than extending the period of treatment, the Anti-Drug Law merely extends the period of confinement.<sup>33</sup>

The Anti-Drug Law purports to specifically protect the health of people who are put in compulsory drug detention. Article 44 of the law reads:

The compulsory isolation centers for drug rehabilitation shall provide the necessary nursing and medical treatment to the persons receiving treatment of drug addiction who are seriously handicapped or suffering from serious diseases; it shall, according to law, take the necessary measures to isolate and treat those persons who suffer from contagious diseases.

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<sup>30</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter IV, art 38(4). Public security organ evaluates severity of addiction and determines eligibility for compulsory isolation for drug rehabilitation.

<sup>31</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter IV, art 38.

<sup>32</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter IV, art 43.

<sup>33</sup> Former detainees and NGO workers [names withheld] in Yunnan province familiar with current conditions in drug detention centers told Human Rights Watch during interviews in 2009 that drug dependency treatment is largely unavailable in drug detention centers.

However, with no specific language prescribing how the health of detainees is going to be protected, this provision offers no positive change from existing Chinese law.

Chinese law requires detainees in compulsory drug detention centers to be provided with “medical treatment and psychological treatment.”<sup>34</sup> By denying people in detention drug dependency treatment and life-saving medical care, China is also violating its obligations under international law. China is bound by several international instruments, including the International Covenant on Economic, Social and Cultural Rights, that guarantee all people the right to the highest attainable standard of health. Realization of the highest attainable standard of health requires that the state ensure equality of access to a system of health care and provide health information and services without discrimination, and protect confidential information.<sup>35</sup> Denying drug treatment to people who are undergoing forced withdrawal is also a violation of China’s obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”).<sup>36</sup>

The UN Human Rights Committee has noted that persons deprived of their liberty should enjoy their fundamental rights, subject to the restrictions that are unavoidable in a closed environment.<sup>37</sup> However, custodial conditions should not aggravate the suffering inherent in confinement.<sup>38</sup> Detainees, therefore, like all other persons, enjoy the right to the highest attainable standard of health and, in particular, the right to be treated with dignity and protected against torture and cruel, inhuman, or degrading treatment.<sup>39</sup>

The prohibition on cruel, inhuman and degrading treatment specifically “compels authorities not only to refrain from provoking such treatment, but also to take the practical preventive measures to protect the physical integrity and the health of persons who have been deprived of their liberty.”<sup>40</sup> It has been recognized that failure to provide adequate health care or

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<sup>34</sup> State Council of the People’s Republic of China, “Methods for Forced Detoxification,” 1995, (in Chinese), art. 2.

<sup>35</sup> ICESCR, art. 2(2); UN Committee on Economic, Social and Cultural Rights, General Comment No. 14, paras. 12, 16, 18, 19, and note 8 (citing the right to information under article 19(2) of the ICCPR). According to the UN Committee on Economic, Social and Cultural Rights, the right also requires states to take affirmative steps to promote health and to refrain from conduct that limits people’s abilities to safeguard their health. General Comment No. 14, paras. 30-37. Laws and policies that “are likely to result in . . . unnecessary morbidity and preventable mortality” constitute specific breaches of the obligation to respect the right to health. *Ibid.*, para. 50.

<sup>36</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Convention against Torture”), G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987. Such practices are also contrary to article 7 of the ICCPR, to which China is a signatory.

<sup>37</sup> UN Human Rights Committee, “Humane treatment of persons deprived of liberty,” General Comment No. 21, UN Doc. HRI/GEN/1/Rev. 6 (1992), art. 10.

<sup>38</sup> See UN Human Rights Committee, General Comment No. 21.

<sup>39</sup> See generally Convention against Torture; see also, ICCPR, art. 7.

<sup>40</sup> See ECHR, *Pantea v. Romania*, no. 33343/96, Judgment of 3 September 2003, para. 189; ECHR, *Gelfmann v. France*, para. 50.

medical treatment to a detainee in prison may contribute to conditions amounting to "inhuman or degrading treatment."<sup>41</sup>

Beyond being ill-treated, China's denial of proper medical treatment to detained drug users that causes severe pain or suffering might amount to torture. The Convention against Torture prohibits as torture "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person ... for any reason based on discrimination of any kind," by an official or a person acting in an official capacity.<sup>42</sup> The Committee against Torture, commenting on protection for individuals and groups made vulnerable by discrimination or marginalization, "emphasizes that the discriminatory use of mental or physical violence or abuse is an important factor in determining whether an act constitutes torture."<sup>43</sup> The committee includes among its list of vulnerable groups those especially at risk because of their "health status"<sup>44</sup> or the reason they are detained.<sup>45</sup>

The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, states that "There can be no doubt that withdrawal symptoms can cause severe pain and suffering if not alleviated by appropriate medical treatment, and the potential for abuse of withdrawal symptoms, in particular in custody situations, is evident."<sup>46</sup> He said that "if withdrawal symptoms are used for any of the purposes cited in definition of torture enshrined in article 1 of the Convention against Torture, this might amount to torture."<sup>47</sup>

The Anti-Drug Law seeks to address abuses against detainees in several clauses that relate specifically to physical violence and corporal punishment. Article 44 specifies:

No managerial persons of the compulsory isolation centers for drug rehabilitation may inflict corporal punishment on, or maltreat or humiliate the persons receiving treatment of drug addiction.<sup>48</sup>

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<sup>41</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "3rd General Report on the CPT's activities covering the period January 1 to December 31, 1992", para. 31; ECHR, *Melnik*

<sup>42</sup> Convention against Torture, art. 1.

<sup>43</sup> Committee against Torture, General Comment No. 2, CAT/C/GC/2, January 24, 2008, para. 20.

<sup>44</sup> See Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/10/44, January 14, 2009, ("With regard to human rights and drug policies, ... drug dependence should be treated like any other health-care condition."), para. 71.

<sup>45</sup> Committee against Torture, General Comment No. 2, CAT/C/GC/2, January 24, 2008, para. 21.

<sup>46</sup> Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, A/HRC/10/44, January 14, 2009, para. 58.

<sup>47</sup> *Ibid.*

<sup>48</sup> Anti-Drug Law of the People's Republic of China, No. 79 of 2008, chapter IV, art 44.

Yet, there are no implementing guidelines to ensure that this provision is actually enforced. There are no instructions for detainees on how to report abuse to outside authorities and there is no attempt to address the common practice of detainees inflicting violence on other detainees at the behest of guards.

A major change articulated in the rehabilitation section of the Anti-Drug Law is provisions to establish “community-based” treatment.<sup>49</sup> What or how this community-based treatment is to be carried out is not defined. People familiar with the Anti-Drug Law expressed confusion about the establishment of community rehabilitation.<sup>50</sup> It is unclear from the wording in the law who this community-based rehabilitation serves, how long it is, what the treatment is, and if it can stand alone or is only a supplement to a two or three-year compulsory drug detention sentence.

The vagueness of these provisions has resulted in wide geographic variation in the interpretation and application of this crucial section of the law. In a document called “Significance and Content of the Narcotics Control Law” released by the National Narcotics Control Commission, the reforms are explained:

The period of community treatment should not exceed three years, that of compulsory isolated treatment should not exceed two years and can be extended by one more year if the abuser fails to give up their addiction at the end of the two-year period. In particular the law expands the definition of the legal drug treatment period to cover community treatment and rehabilitation...the law prescribes that community drug treatment, compulsory isolated drug treatment and community rehabilitation should be closely linked to each other in order to put drug addicts under constant restriction of legal drug treatment measures.<sup>51</sup>

Even this official attempt to clarify the procedure for different types of confinement leaves many crucial questions unanswered, such as who makes the decisions about “successful treatment” and the criteria for these decisions. In some parts of China, people had been notified that, as part of the implementation of the Anti-Drug Law, all current and former drug users accessing methadone will be moved to a “community rehabilitation” site where they will be confined.<sup>52</sup>

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<sup>49</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter IV, art 33.

<sup>50</sup> Human Rights Watch spoke with former detainees, NGO workers and staff of international organizations who were unsure of what constitutes community rehabilitation and in what situations a person can be sentenced to it.

<sup>51</sup> Office of China National Narcotics Control Commission, “Significance and Content of the Narcotics Control Law,” June 25, 2008, p3. <http://www.china.org.cn/e-news/newso80625-3.htm> (retrieved September 9, 2009.).

<sup>52</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

Significantly, the Anti-Drug Law calls for the abolishment of sentences to re-education through labor (RTL) for drug users. RTL centers have been condemned for their inhumane conditions and forced labor practices. Their use in the name of treatment for drug dependency treatment has been particularly criticized, especially considering reports of the lack of medical or drug dependency treatment.<sup>53</sup> The UN Special Rapporteur on Torture has stated that the re-education through labor system in China “and similar methods of re-education in prisons, pretrial detention centres, and other institutions... can also be considered as a form of inhuman or degrading treatment or punishment, if not mental torture.”<sup>54</sup>

However, while the Anti-Drug Law abolishes RTL for drug users, it concurrently increases the minimum sentence in compulsory drug detention centers to two years, with possible extensions of up to five years, including the time in community rehabilitation. Numerous sources told Human Rights Watch that the conditions in drug detention centers are identical to RTL centers and that this milestone of drug treatment reform results in nothing more significant than a name change.<sup>55</sup>

## **HIV/AIDS and Injection Drug Use in China**

As of 2007, 38 percent of the approximately 700,000 people estimated to be infected with HIV in China were current or former injection drug users (IDU). In 2008 an estimated 27 percent of new reported HIV infections were among injection drug users.<sup>56</sup> A national review of HIV among injection drug users found an overall HIV prevalence of 12 percent, with significant geographic variation: in some places the prevalence of HIV among drug users is estimated to be as high as 89 percent.<sup>57</sup>

It is critical that people who inject drugs can access harm reduction and other services such as needle exchange programs that are in place to help mitigate the spread of AIDS. However, there are multiple barriers that seriously inhibit access to, and the effectiveness of, these programs. People who inject drugs are caught between the Ministry of Health, which supports harm reduction programs, and the Ministry of Public Security, which views drug users as criminals. Even though methadone clinics and needle exchange programs exist and

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<sup>53</sup> Human Rights Watch, “An Unbreakable Cycle: Drug Dependency Treatment, Mandatory Confinement, and HIV/AIDS in China’s Guangxi Province,” December 2008, <http://www.hrw.org/en/reports/2008/12/09/unbreakable-cycle-o>.

<sup>54</sup> UN Commission on Human Rights, “Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: mission to China,” E/CN.4/2006/6/Add.6, March 10, 2006, paras 64, 82 (u).

<sup>55</sup> Former detainees and NGO workers in Yunnan province, interviewed by Human Rights Watch in 2009.

<sup>56</sup> UNAIDS May 2009 Report, “AIDS in China: background information on the epidemic and the response,” unpublished document on file with Human Rights Watch, May 2009.

<sup>57</sup> UNAIDS May 2009 Report, “AIDS in China: background information on the epidemic and the response,” unpublished document on file with Human Rights Watch, May 2009, p. 5.

operate in full compliance with Chinese law, the persistent view in Chinese law enforcement is that drug users are criminals and should be apprehended and detained, even when trying to access harm reduction services. This contradiction between the responses of the two ministries means that drug users do not have confidence they can access services without arrest and harassment. People who are not registered as “drug users” are afraid to access methadone because it requires them to be on a list that is not confidential, and where identities are not protected, and which might lead to them being arrested.

### **Community-based Methadone**

Although national policy holds that a drug user can register for methadone without any prior confinement in a drug detention center, a recent UNAIDS report found that the majority of methadone clinics nationally require at least one previous incarceration period as a prerequisite for qualifying for the methadone program.<sup>58</sup> Yet according to a study by researchers from the Chinese Center for Disease Control and Prevention, the retention rates of people in methadone are higher among those who have not previously undergone compulsory drug detention compared to those who have. This study also concluded that there is only a 44 percent retention rate of Chinese methadone users<sup>59</sup> due to, among other factors, an average daily methadone dose that is too low.<sup>60</sup> These findings highlight the need for a national methadone policy based upon evidence and best practice, and implemented nationally.

## **Drug Use and HIV/AIDS in Yunnan Province**

Yunnan province, situated in the center of the “golden triangle” of the drug trade, and a key transit point for illicit narcotics entering China from Southeast Asia, has a long history of narcotics use. In 1949, when the Communist Party came to power, it was estimated that 25 percent of the population in Yunnan was addicted to opium.<sup>61</sup> The first drug-user related case of HIV/AIDS in China was discovered in Yunnan province in 1989 and Yunnan has the highest rate of HIV/AIDS among drug users in China, with estimates that 47 percent of injection drug users are HIV positive.<sup>62</sup>

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<sup>58</sup> UNAIDS May 2009 Report, “AIDS in China: background information on the epidemic and the response,” unpublished document on file with Human Rights Watch, May 2009.

<sup>59</sup> Retention is defined as a client in the study still taking methadone during the month prior to the study being completed.

<sup>60</sup> E Liu, T Liang, L Shen, H Zhong, B Wang, Z Wu, and R Detels, “Correlates of methadone client retention: A prospective cohort study in Guizhou province, China,” *International Journal of Drug Policy*, vol. 20, 2009, p307. Retention is defined as a client in the study still taking methadone during the month prior to the study being completed.

<sup>61</sup> Liu, Y Fang, and X Wang, “Drug Abuse in China: Past, Present and Future,” *Cell Molecular Neurobiology*, vol 29, 2008.

<sup>62</sup> YP Bao and ZM Liu, “Systematic review of HIV and HCV infection among drug users in China,” *International Journal of STD and AIDS*, vol.20, 2009, p401.



According to a 2009 report from the World Health Organization (WHO), there are at least 114 drug detention centers in Yunnan.<sup>63</sup> While the majority of detainees are men between the ages of 20 and 30 years, the number of women in these centers has increased steadily over the last decade.<sup>64</sup>

## The Unbreakable Cycle, from Guangxi to Yunnan

Human Rights Watch research in Guangxi province in 2007 found that many current and former drug users faced an unbreakable cycle of addiction, incarceration, discrimination and hopelessness. In contrast, Yunnan is widely regarded as a model province in its response to the AIDS epidemic. High rates of HIV/AIDS among injection drug users, and pragmatic local health authorities, led to the early implementation of harm reduction measures. The provincial government in Yunnan has been widely praised for its support of these progressive policies; the head of the President's Emergency Program for AIDS Relief (PEPFAR) under US President George W. Bush visited Yunnan in 2005 and reported, "It's clear that the senior leadership at the national level and the leadership in this province are taking this problem [HIV/AIDS] very seriously."<sup>65</sup> A 2007 report from UNICEF states:

Yunnan province has responded to the challenge of the HIV epidemic by implementing a series of central government laws and regulations on the control and prevention of HIV and STIs [sexually transmitted infections] and by carrying out its provincial level policies....Of all the provinces in China, Yunnan has the widest variety of interventions, including training multiple sectors to respond to HIV, screening of blood, reproductive health care, school health education and working with drug users and sex workers.<sup>66</sup>

Additionally Yunnan is the recipient of significant financial and programmatic support from international organizations. An official statement on the website of the National Population and Family Planning Commission of China reads: "International projects have become a major force in efforts to prevent and control HIV/AIDS in Yunnan province."<sup>67</sup> The

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<sup>63</sup> World Health Organization, "Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: An application of selected human rights principles," (Geneva, Switzerland: World Health Organization) 2009.

<sup>64</sup> World Health Organization, "Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: An application of selected human rights principles," (Geneva, Switzerland: World Health Organization) 2009.

<sup>65</sup> Jim Yardley, "Chinese City Emerges as Model in AIDS Fight," *The New York Times*, June 16, 2005, <http://www.nytimes.com/2005/06/16/international/asia/16aids.html>.

<sup>66</sup> UNICEF Innocenti Research Centre, "Limiting the Future Impact of HIV and AIDS on Children in Yunnan (China)", 2007, [http://74.125.113.132/search?q=cache:vMG7UDS5nLEJ:www.unicef-irc.org/publications/pdf/aids\\_book/chapter6\\_seist.pdf+yunnan+aids+funding+2008&cd=11&hl=en&ct=clnk&gl=us](http://74.125.113.132/search?q=cache:vMG7UDS5nLEJ:www.unicef-irc.org/publications/pdf/aids_book/chapter6_seist.pdf+yunnan+aids+funding+2008&cd=11&hl=en&ct=clnk&gl=us), (accessed October 30, 2009).

<sup>67</sup> National Population and Family Planning Commission of China, "Int'l Agencies Help Yunnan Battle HIV/AIDS," December 1, 2008, <http://www.npfpc.gov.cn/en/detail.aspx?articleid=090601110705765095>, (accessed October 30, 2009).

combination of such praise and external technical and financial support has created the impression that Yunnan is implementing international best practice for HIV prevention and treatment and achieving impact. For instance, a 2008 article from the Chinese government English language *China Daily* reports that: “Intensive efforts by the Yunnan provincial government and international assistance have reined in the rapid rise of the HIV/AIDS infection in the region.”<sup>68</sup>

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<sup>68</sup> “Province Stepping Up HIV Awareness,” *China Daily*, December 1, 2008.

## IV. Findings

### Police Harassment and Arrest

“Just because you don’t use doesn’t mean they won’t come after you.”

—Liu, former detainee, Yunnan Province, 2009<sup>69</sup>

Current and former drug users in Yunnan report that they are routinely harassed and threatened by the police. According to current and former injection drug users (IDUs) interviewed by Human Rights Watch, police often detain people without a reasonable suspicion of drug use, or without legal basis. Current and former drug users told Human Rights Watch that the constant fear of arrest makes it difficult to access harm reduction services, find employment and establish themselves within their community. IDUs described a terrifying environment where police arrest quotas and “special days” dictate the number of arrests and the aggressiveness of police surveillance and detention. IDUs told Human Rights Watch that during these periods of police crackdowns, people are frequently taken off the street and forced to do a urine test because they “look” like drug users. One IDU interviewed said, “Even if you’re not using you will be detained if the police know you have used drugs in the past or you look like someone who has.”<sup>70</sup> According to another IDU, “For the police, arresting drug users is a task that must be done to fill up the detox [drug detention] centers.”<sup>71</sup>

IDUs told Human Rights Watch that police become extremely aggressive toward suspected drug users ahead of sensitive dates on the Chinese government’s calendar such as the run-up to the August 2008 Olympic Games in Beijing. Similarly, according to drug users and NGO officials, the 60<sup>th</sup> anniversary of the founding of the People’s Republic of China on October 1, 2009 led to an increase in arbitrary detentions. One NGO worker reported, “It’s because of this anniversary. The police have an extra excuse to just arrest people.”<sup>72</sup>

Many IDUs interviewed told Human Rights Watch that in their experience, encounters with police were routinely violent. One former IDU who has been forced to do several urine tests in the last year said, “Of course we are all afraid of the police. If we don’t do what they say, they hit us.”<sup>73</sup> Another IDU, Chou, reported to Human Rights Watch:

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<sup>69</sup> Human Rights Watch interview with Liu, Yunnan, 2009.

<sup>70</sup> Human Rights Watch interview with Lu, Yunnan, 2009.

<sup>71</sup> Human Rights Watch interview with Su, Yunnan, 2009.

<sup>72</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>73</sup> Human Rights Watch interview with Li, Yunnan, 2009.

I was leaving work when I was ambushed by several plainclothes police. They started beating me and put handcuffs on me. No one on the street tried to help because they just assumed I was a criminal. The police said if I didn't give them 3,000 RMB [US\$440] they would put me in detox [drug detention centers]. They brought me to my house and told me if I didn't get the money they would keep beating me. They waited while I was inside and waited while my family found 3,000 RMB from relatives. I was so scared.<sup>74</sup>

Other IDUs reported similar threats. Said one, "The police know they will get away with whatever they do, so why follow the rules?"<sup>75</sup> A woman cried as she told Human Rights Watch that her husband, a drug user, had been taken to the police station and beaten three days earlier. She said:

I got a call from a friend who had seen my husband stopped by the police. When he didn't come home I went with his parents to the police station. They wouldn't let us see him or talk to him. The next day they let him out but he's not right anymore. He is confused and keeps saying his head hurts. When I ask him what happens he just cries. He told his parents that he was beaten. We are all so scared because his head is not right anymore.<sup>76</sup>

She recounted her own previous experience with the police. She had been beaten so badly that she had suffered a miscarriage: "The police stopped me and they wanted money. I said 'Please don't use violence. Please don't use violence.' But they beat me."<sup>77</sup>

IDUs said that they were under immediate police surveillance any time they used their official state-issued national identity card. When a person who has been arrested previously for drug use uses their identity card, the police are informed of that individual's location. One IDU told Human Rights Watch, "I checked into a hotel last spring and as far as I knew everything was fine. Then in the middle of the night the police broke into my room, grabbed me from bed, handcuffed me and forced me to go to the police station to take a urine test."<sup>78</sup> Another former drug user said: "When we are on the street, in a restaurant, anywhere, the police can just grab us and make us do a urine test. Whenever we use the national identity card they can make us do a urine test."<sup>79</sup> A local NGO worker told Human Rights Watch, "It is

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<sup>74</sup> Human Rights Watch interview with Chou, Yunnan, 2009.

<sup>75</sup> Human Rights Watch interview with Liu, Yunnan, 2009.

<sup>76</sup> Human Rights Watch interview with Lu, Yunnan, 2009.

<sup>77</sup> Human Rights Watch interview with Lu, Yunnan, 2009.

<sup>78</sup> Human Rights Watch interview with Xue, Yunnan, 2009.

<sup>79</sup> Human Rights Watch interview with Ting, Yunnan, 2009.

really hard for IDUs when they leave drug detention because any time they use the identity card, they can be taken forcibly by the police and made to take a urine test. They don't have much of a chance to have a normal life."<sup>80</sup>

Many former and current drug users also reported that threat of arrest was a barrier to accessing harm reduction services. In some places, current and former drug users report that the police don't arrest people around clinics to allow clients to access methadone without fear of arrest. But in others, the nearby police presence is a significant barrier. One IDU, Yan, said:

I want to try methadone because I can't quit drugs on my own. But I'm afraid to take the first step and go to the clinic because I don't want to be put into drug detention. The police wait near the clinics. My friend was arrested when she went and now she is in drug detention.<sup>81</sup>

Another IDU, Su, told Human Rights Watch: "I was detained outside a methadone clinic. They took me to the police station and made me take a urine test."<sup>82</sup> A local NGO worker explained:

The problem here is that the local police think if someone is using methadone they are also using drugs, and they think anyone using drugs must be arrested. So they don't see anything wrong with arresting people as they are going to a methadone clinic.<sup>83</sup>

## **Sentencing to Drug Detention/Community Rehabilitation**

None of the drug users or local NGO workers interviewed by Human Rights Watch understood under what circumstances a suspected drug user would be put into community rehabilitation as opposed to a compulsory drug detention center. A former detainee, Wu, told Human Rights Watch: "We have no idea what community rehabilitation is. So far no one has been sent there, everyone who has gotten arrested since last June has just gone to a drug detention center."<sup>84</sup>

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<sup>80</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>81</sup> Human Rights Watch interview with Yan, Yunnan, 2009.

<sup>82</sup> Human Rights Watch interview with Su, Yunnan, 2009.

<sup>83</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>84</sup> Human Rights Watch interview with Wu, Yunnan, 2009.

People interviewed by Human Rights Watch uniformly expressed confusion over what community rehabilitation is, who is put in it and how long the sentence is. As one local NGO worker told Human Rights Watch: “We have no idea what this community rehabilitation is, and worse, we don’t know who is making the decisions about treatment in community rehabilitation.”<sup>85</sup>

There are no health-based criteria for making the decision to put a person in community rehabilitation for an unspecified amount of time or compulsory drug detention for two years. An NGO worker told Human Rights Watch:

Initially we were encouraged by the idea of community rehabilitation, but the procedure is too unclear and in the end the law is only about increasing the time in drug detention centers to two years. The Anti-Drug Law is a law for the police. The less turnover there is, the easier it is for the police.<sup>86</sup>

#### **Arbitrarily Detained and Intimidated**

At around two in the afternoon, Guo and his younger brother were riding their bikes on the way home:

Suddenly, we came across several policemen... They shouted at us to stop. They told me to put my hands over my head and to crouch down. They asked me to do a urine test... Then I sat there for a long time. [Later] I was facing them and said that I had to use the restroom. I was very nervous. But the police didn't let me go and insisted on making me endure it, and then another 30 minutes passed and I honestly couldn't take it. So I asked them again to use the restroom. This time, they said, “If you say anything again, you'll be killed.”

—Written account by Guo, Yunnan, 2009

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<sup>85</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>86</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

## Drug Dependency Treatment

### *Conditions in drug detention centers*

“We are not treated like people. There are no human rights in detention.”

—Xu, former detainee, Yunnan, 2009<sup>87</sup>

Former detainees of compulsory drug detention centers widely report that conditions are inhumane and are threatening to their health. While drug detention centers purportedly provide drug dependency treatment, former detainees and NGO workers describe these centers as factories where detainees perform unpaid labor and are subjected to violence and intimidation.

Li, a drug user who was detained in 2008, told Human Rights Watch: “In our local drug detention center there is medication to help you [with withdrawal], but you have to pay for it and no one has that money. So it’s like there’s no medication at all.”<sup>88</sup> Tang said: “There is nothing to help with quitting drugs, not even methadone which we can take on the outside.”<sup>89</sup> The director of an international non-governmental organization said: “My personal goal is to bring methadone into the drug detention centers. It doesn’t make any sense that there is no substitution therapy available.”<sup>90</sup>

NGO workers explained that the lack of drug dependency treatment was consistent with the real objectives of the detention centers. Former detainees concurred. One former detainee, Jian, told Human Rights Watch that, “The point of being put in a drug detention center is not to quit drugs, it is to work. There is no medicine to take when you first get in and there is no methadone or anything else. They don’t put us there to get healthy, they put us there to work.”<sup>91</sup>

A number of former detainees told Human Rights Watch that in addition to the physical suffering caused by abrupt, forced, opioid withdrawal, the lack of sustained substitution therapy made it hard to stay off drugs when released from detention. One former detainee who left drug detention in 2008 and is now using methadone said, “I have been in drug detention and RTL ten times. All I have ever done in those places is work. Work doesn’t make you quit drugs. Now I use methadone every day. Methadone really helps me.”<sup>92</sup>

Another former drug user wrote:

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<sup>87</sup> Human Rights Watch interview with Xu, Yunnan, 2009.

<sup>88</sup> Human Rights Watch interview with Li, Yunnan, 2009.

<sup>89</sup> Human Rights Watch interview with Tang, Yunnan, 2009.

<sup>90</sup> Human Rights Watch interview with NGO official, Yunnan, 2009.

<sup>91</sup> Human Rights Watch interview with Jian, Yunnan, 2009.

<sup>92</sup> Human Rights Watch interview with Chen, Yunnan, 2009.

I am a former drug addict. I started using in 1990. I've tried to get clean and have been in compulsory labor camps more than eight times. I just cannot go back to a forced labor camp—[it is] a terrifying world where darkness knows no limits.<sup>93</sup>

Chinese law requires detainees in compulsory centers to be provided with “medical treatment and psychological treatment.”<sup>94</sup> Denying drug treatment to people who are undergoing forced withdrawal also violates China’s obligations under the Convention against Torture: by withholding substitution therapy and instead subjecting detainees to forced labor and abuse, officials are committing inhuman and degrading treatment.

### *Forced labor and violence against detainees*

Former detainees and NGO workers interviewed by Human Rights Watch in Yunnan province told us that in their experience drug detention centers are simply factories. Former detainees reported that they spent their days making shoes and trinkets. Wang said: “We all want to know how making shoes is supposed to help us quit drugs.”<sup>95</sup> Another former detainee told Human Rights Watch: “All drug detention is is work. We get up at five in the morning to make shoes. We work all day and into the night. That’s all it is.”<sup>96</sup> Another former detainee reported: “There is no support for quitting drugs, there is no skills training. We are treated like animals and are forced to work all the time with no salary.”<sup>97</sup>

Many former detainees and NGO workers interviewed by Human Rights Watch speculated that local authorities benefited financially from the forced labor in drug detention centers. An NGO worker interviewed by Human Rights Watch said: “The head of a drug detention center makes an arrangement with a private company to get free labor from the detainees.”<sup>98</sup> A local NGO official who has worked closely with the local government explained to Human Rights Watch:

“Once a drug detention center is built it has to be filled up because money has been invested in it. The central government doesn’t give enough money for these centers, so the local government makes up for it by having the detainees work all day. The head of the center contracts out with local companies and makes extra money for himself or the police with all the

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<sup>93</sup> Written account provided to Human Rights Watch, Yunnan, 2009.

<sup>94</sup> State Council of the People’s Republic of China, “Methods for Forced Detoxification,” 1995, (in Chinese), art. 2.

<sup>95</sup> Human Rights Watch interview with Wang, Yunnan, 2009.

<sup>96</sup> Human Rights Watch interview with Jian, Yunnan, 2009.

<sup>97</sup> Human Rights Watch interview with Li, Yunnan, 2009.

<sup>98</sup> Human Rights Watch interview with NGO worker, 2009.



products that the detainees make. This is a huge problem, but unless the central government gives more money, the drug detention centers will always justify the labor in this way.”<sup>99</sup>

Despite similar assertions from multiple interviewees, Human Rights Watch was unable to independently verify allegations that local officials exploit labor in drug detention centers for personal financial benefit.

#### **Forced Labor at a Drug Detention Center**

*“All of us [detainees] scrambled off the bus. Once I got off, I began to feel chest pains and nausea. I vomited up everything I had eaten for breakfast that morning. I felt so sick. Before catching my breath, I was forced to go to the construction site to dig a ditch for the foundation. I thought: how could I start digging when I didn’t even have the strength to lift a piece of paper? I told the foreman [another detainee] that I felt sick, and that my addiction pains were flaring up. I told him I really had no strength, and asked if I could rest a moment. Then the foreman said, ‘Don’t come to me like this. We were all like this at one point, you know? You don’t recover and then do hard labor, but rather you do hard labor in order to recover. How long have you been an addict?’ Then he kicked me in the stomach and I immediately fell over. I was in extreme pain; I couldn’t stand. Once he saw that I couldn’t stand up, he took off his belt and whipped me. My back burned. After the beating, I had to go back to the ditch and do hard labor. Carrying just one basket of dirt was so hard. As I was carrying a basket I heard someone say, ‘Are you going on a walk? You think you are walking in the road of youthfulness?’ Just as I was about to turn my head, a wooden stick swung from behind like I was being spanked. I thought, ‘Why can’t I just die?’”*

—Written account from Huang, Yunnan, 2009

International human rights law provides that all persons deprived of their liberty "shall be treated with humanity and with respect for the inherent dignity of the human person."<sup>100</sup>

While international law permits detained persons to be required to work as part of their punishment "in consequence of a lawful order of a court,"<sup>101</sup> drug users in compulsory detention centers have not been detained by court order and are not detained for punishment, but for treatment.<sup>102</sup>

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<sup>99</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>100</sup> ICCPR, art. 10(1).

<sup>101</sup> ICCPR, art. 8(3)(c)(i); see also Manfred Nowak, *ICCPR Commentary*, 2nd ed., (Kehl: NP Engel, 2005), pp. 204-05.

<sup>102</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, rule 72 (2).

Former detainees reported that they were routinely subjected to violence while confined in compulsory drug detention. They described a complex system where certain detainees are “chosen” by the guards to carry out much of the physical violence on other detainees. These detainees are referred to as “little dogs.” A former detainee who was released in 2008 explained: “They say it’s the police who guard detox [drug detention centers], but really they use other detainees because the police don’t want to be responsible if someone dies. The people who are chosen have much better situations than normal detainees. They don’t have to work, they get food that is more than just rice and spoiled vegetables.” He went on to say: “Last time I was in detox [drug detention] I didn’t finish my work on time and I got beaten very badly. They beat me all over my back and butt and wouldn’t let me sleep.”<sup>103</sup> According to another former detainee:

If an inmate dies from a beating no one on the outside will know because the police will just tell the family that the person got sick. And there is not really anything the family can do to prove the truth, even if they know a person was beaten to death. But the guards still don’t want to be in trouble for killing someone, so they make their ‘little dogs’ do the beatings.<sup>104</sup>

Article 69 of the Anti-Drug Law contains provisions that “a staff member of a public security organ, judicial administration department or a relevant department in charge” who is found “subjecting persons receiving treatment of drug addiction to corporal punishment, maltreatment, humiliation, etc.”<sup>105</sup> will be punished according to the criminal law. Yet, there is no provision for reporting abuse, nor any independent investigatory mechanism. Further, this provision seems to encourage the use by guards of detainees in carrying out violence and punishment against other detainees.

Many former detainees told Human Rights Watch that they had witnessed beatings in drug detentions centers that they believed resulted in severe injury or death. Several former detainees interviewed by Human Rights Watch in the same city cited the specific incident of a detainee who had been killed in a drug detention center in 2008. According to their accounts, the detention center told the family that the cause of death was illness, but several detainees who had been incarcerated at the time of the beating told the detainee’s family that he had been beaten to death. When the family tried to look into the death, the authorities at the drug detention center gave them money to end the matter. When the family continued to look into it they were threatened.<sup>106</sup> As one former detainee told Human Rights

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<sup>103</sup> Human Rights Watch interview with Deng, Yunnan, 2009.

<sup>104</sup> Human Rights Watch interview with Xu, Yunnan, 2009.

<sup>105</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter 6, art 69.

<sup>106</sup> Human Rights Watch interview with several former detainees, Yunnan, 2009.

Watch: “They [detention authorities] pay people not to investigate the deaths of people who die in drug detention centers.”<sup>107</sup>

The Chinese government has a poor record of ensuring the rights and safety of detainees in official detention centers criminal suspects. Official Chinese government statistics indicate that in the first four months of 2009 alone, a total of 15 detainees died “unnatural deaths” in official detention centers.<sup>108</sup> Official concerns about allegations of brutality and torture in detention centers for criminal suspects have prompted a government decision to equip all such facilities with closed circuit television security monitors by the end of September 2009.<sup>109</sup> But drug detention centers offer no such protections or official oversight.

## General Conditions and Threats to Health

Former detainees told Human Rights Watch that there is almost no access to health care in drug detention centers, even for people with HIV/AIDS and TB. Several HIV positive former detainees told Human Rights Watch that when they had been confined in compulsory drug detention they were able to continue to take antiretroviral therapy (ART), which was sent in by the Chinese Centers for Disease Control (CDC) on a monthly basis.<sup>110</sup> However, these former detainees also reported that there was no routine medical monitoring, including measures of immune function (CD4 counts) which are used to determine when to initiate ART. Former detainees said that there is no medical supervision for detainees taking ART in drug detention centers, and no confidentiality. According to a former detainee, “In detention centers there is a lot of discrimination if people are taking ART. A lot of people choose not to keep taking the drugs because they don’t want to be discriminated against by the guards.”<sup>111</sup>

Chinese national policy states that people are given an HIV test at the start of the drug detention confinement sentence. However detainees are not told the result of the test. Several key informants told Human Rights Watch that CD4 counts were also given, but not used to determine eligibility for ART. All detainees are given a reference number and told they can go to the local CDC and look up the results of the test after release from the drug detention center. One former detainee told Human Rights Watch: “We are really worried about our friends who are put into drug detention, especially now that drug detention is at least two years long, because they are not getting good AIDS treatment inside, if they are

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<sup>107</sup> Human Rights Watch interview with Peng, Yunnan, 2009.

<sup>108</sup> “Close Watch on Brutality,” *China Daily* (Beijing), April 22, 2009, [http://www.chinadaily.com.cn/opinion/2009-04/22/content\\_7702162.htm#](http://www.chinadaily.com.cn/opinion/2009-04/22/content_7702162.htm#) (accessed July 7, 2009).

<sup>109</sup> “Close Watch on Brutality,” *China Daily* (Beijing), April 22, 2009, [http://www.chinadaily.com.cn/opinion/2009-04/22/content\\_7702162.htm#](http://www.chinadaily.com.cn/opinion/2009-04/22/content_7702162.htm#) (accessed July 7, 2009).

<sup>110</sup> Former detainees who had taken ARV while in a drug detention center told Human Rights Watch that ARV were supplied on a monthly basis from the local CDC.

<sup>111</sup> Human Rights Watch interview with Zheng, Yunnan, 2009.

getting treatment at all. They are HIV positive, they don't have good nutrition, they get beaten, and they die."<sup>112</sup>

Former detainees report that in addition to HIV/AIDS, tuberculosis is also a significant problem in drug detention centers. One former detainee said: "Lots of people inside drug detention centers have TB, and lots of people get TB while in detention. There is no treatment and everyone is all together all the time."<sup>113</sup> Another detainee said: "A lot of people are already in a bad health situation when they go into detention, but there is no treatment for anything. People who have TB don't have any chance to treat it and it puts everyone else at risk too."<sup>114</sup>

Many of the former detainees and NGO workers who were interviewed in Yunnan province told Human Rights Watch that some detainees have died in detention or are let out of drug detention right before they die. However Human Rights Watch was not able to reliably determine the frequency with which detainees die while in custody or shortly upon release.

An NGO worker said: "Where we are, a lot of people with AIDS die in drug detention. Either they don't know they have AIDS and when they are let out to die, it's too late. Or even if they do know they have AIDS, if they get an OI [opportunistic infection],<sup>115</sup> there's nothing they can do about it but just wait to get sick enough to be let out."<sup>116</sup> One former detainee, Tan, told Human Rights Watch:

The biggest problem inside of drug detention centers is that there is no health care at all. People get really sick because they are already sick when they enter and the bad conditions make everything worse. I have known many people who died a few weeks after they were let out of detention.<sup>117</sup>

According to an NGO worker, "Because there is no treatment at all of OIs while in drug detention, people who are let out because they are too sick usually die right away. Most people can't afford to go to the hospital and so they just die."<sup>118</sup> An HIV positive former detainee, Chen, whose brother, also HIV positive, was in a drug detention center at the time

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<sup>112</sup> Human Rights Watch interview with Liu, Yunnan, 2009.

<sup>113</sup> Human Rights Watch interview with Deng, Yunnan, 2009.

<sup>114</sup> Human Rights Watch interview with Xiao, Yunnan 2009.

<sup>115</sup> An opportunistic infection is one that takes advantage of a weakened immune system. People with HIV are particularly susceptible to OIs because of compromised defenses.

<sup>116</sup> Human Rights Watch interview with Li, Yunnan, July 2009.

<sup>117</sup> Human Rights Watch interview with Tan, Yunnan, 2009.

<sup>118</sup> Human Rights Watch interview with Zhao, Yunnan, 2009.

of the interview, broke down into tears and said:

My brother was let out of RTL last year [2008] and ten days later he was put into a drug detention center. He has AIDS. If he is too sick to work they will let him out of detention, but they will make us pay to make up for the money they are losing by letting him out. I don't know what we're going to do. If he is sick enough to be let out it will mean he needs to go the hospital and we can't pay for that.<sup>119</sup>

Former detainees uniformly said that they feared dying while in drug detention or upon release, and say that when friends are put into drug detention centers they know that they may never come out.

Former detainees told Human Rights Watch that it is frequently possible to access heroin in drug detention centers. One HIV positive former detainee said: "Last time I was in detox [drug detention] [2007] I was able to use heroin. Someone would get some in and then we would all use the same needle."<sup>120</sup> Another former detainee who is also HIV positive said: "I'm sure I was infected while I was in drug detention. We would all use one needle; this needle would go around the whole place."<sup>121</sup>

According to a World Health Organization report from 2009 that addressed the situation in China, "In these centers [compulsory drug detention centers] drug dependency treatment, education or HIV prevention programs are limited."<sup>122</sup> Drug users and NGO officials interviewed by Human Rights Watch in Yunnan went further, saying that even after the implementation of the Anti-Drug Law, in their experience and understanding, the three "necessary stages" of drug treatment (physical detoxification, mental rehabilitation and social integration) were non-existent.

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<sup>119</sup> Human Rights Watch interview with Chen, Yunnan, 2009.

<sup>120</sup> Human Rights Watch interview with Zhao, Yunnan, 2009.

<sup>121</sup> Human Rights Watch interview with Su, Yunnan, 2009.

<sup>122</sup> World Health Organization, "Assessment of compulsory treatment of people who use drugs in Cambodia, China, Malaysia and Viet Nam: An application of selected human rights principles," 2009, p12.

### **Abuse in Drug Detention Centers**

*"I tried to run away, and in the process, I broke both feet. When I went to the hospital for treatment I was arrested and sent back to the drug addiction center... Inside, I was given very little food, and they never gave me any medicine at all to treat my feet I was locked up for about half a year and my feet became crippled. After about six months they released me to do hard labor. Because my feet were crippled, I couldn't do any work or move around. When it was time to face the Director, he said 'I'm not asking you to use your feet, I'm asking you to use your hands instead, and besides, who told you to run away to begin with?' ... If you are sick, you can't obtain treatment. Instead the ill are like beasts of burden - if they want to hit you, they hit you, if they want to yell, they yell. A person like me, just like anyone else, my feet are now crippled. There are also others like me there whose hands or feet were also crippled and ruined because of the beatings... We are human beings, not beasts of burden - please treat us with some humanity."*

–Written account from Wang

### **Discrimination**

"I don't know how to deal with tomorrow."

– Former detainee Hu, July 2009

Former detainees and NGO workers interviewed by Human Rights Watch uniformly said that current and former drug users face widespread and persistent discrimination. This discrimination, from family and community, is reinforced by the state-sponsored discrimination that links an individual's history as a drug user to his or her use of the national identity card. Forcing a former drug user to undergo a compulsory urine test whenever that card is used, and the immense social stigma that goes along with it, directly prevents a former detainee from establishing a life within society. Detainees described a cycle of incarceration, stigmatization when released back into the community, unemployment due to discrimination and, in hopelessness, a return to drug use. Former detainees said that without a job it was very difficult to move away from drug use, because of boredom and depression, but also because with no exposure to new people and experiences all that was left was the old life and old friends.

Every former detainee interviewed reported that discrimination makes it almost impossible to find employment, either because "drug user" is linked to the national identity card or because other members of the community reveal the person's identity as a former drug user. One former detainee said: "All I want is to find some work and be able to take care of myself.

No one will hire me because they know I used to use drugs.”<sup>123</sup> Another former detainee said: “Less discrimination, that would make such a difference. If I could get a job everything would be better.”<sup>124</sup> Another said: “I cannot find a job because there is so much discrimination. Sometimes employers won’t say it directly, but I can tell by the way they tell me there’s no work that they don’t want to hire someone who has been in a drug detention center.”<sup>125</sup>

Former detainees uniformly expressed frustration that there is no vocational skills training or support in drug detention centers. One former detainee told Human Rights Watch: “We come out of detention with no skills, no ability to do anything. If we had a skill to offer we might not face so much discrimination. But all we do in the drug detention center is work in the factory.”<sup>126</sup> Another former detainee said: “If there was the opportunity to have a job outside of detention people wouldn’t relapse as much. But what are we supposed to do?”<sup>127</sup>

#### **Arbitrary Forced Urine Testing**

*“I never thought I would embarrass my daughter like this. My daughter and her classmate came with me to the Public Security Bureau to renew my identity card. On the way we were laughing and talking. Once we got to the Bureau there was a policewoman. The policewoman blocked my daughter and the rest of the people there and told me, ‘Please come with us to do a urine test.’ I was taken off guard. I asked, ‘Why?’ The policewoman said, ‘We know that you have a history of drug addiction. Anyone coming in about their identity card must take a urine test.’ Everyone in the room—even my daughter and her classmate—could see me. There were faces in the room that looked at me with disdain, some with surprise, but my daughter’s face turned especially pale. I felt like the earth was spinning. I hadn’t used drugs in a long time. How was my daughter to explain this to her classmate?”*

—Written account from Hui

Former detainees told Human Rights Watch that the inability to find a job added to the incredible feelings of guilt and shame for being a burden on their families. One former detainee said: “I can’t find a job so I have no salary and I can’t support myself. My father has to support me and my mother-she....” He had to stop because he was crying. Then he said:

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<sup>123</sup> Human Rights Watch interview with Ling, Yunnan, July 2009.

<sup>124</sup> Human Rights Watch interview with Wei, Yunnan, July 2009.

<sup>125</sup> Human Rights Watch interview with Chen, Yunnan, July 2009.

<sup>126</sup> Human Rights Watch interview with Rong, Yunnan, 2009.

<sup>127</sup> Human Rights Watch interview with Du, Yunnan, 2009.

“I’m really disappointed in myself.”<sup>128</sup> Another former detainee said: “I feel terrible that my mom has to support me. On top of everything else, she has to pay for me to use methadone.”<sup>129</sup>

According to Chinese policy in “Four Freed and One Care,” HIV positive people who have no or minimal incomes are eligible for financial support from the government. NGO workers and current and former IDUs said that HIV-positive IDU are often denied this benefit. One NGO worker who is an expert on the law said:

The government help is for people living under a certain income bracket who have AIDS. People who have been to compulsory detox [drug detention] and registered drug users are not excluded from accessing this by law. If they are not able to access it because of discrimination, that’s what’s illegal.<sup>130</sup>

Former detainees report that it is very difficult to integrate into society after they have been released from compulsory drug detention. Despite rhetoric from various governmental offices about helping drug users find a place in society, provisions in the Anti-Drug Law contradict this. Article 9 of the Anti-Drug Law calls on citizens to report to the local authorities anyone they suspect of drug use. The law reads:

People’s governments at all levels and the relevant departments shall protect the informants, commend or reward the reporting persons who have performed meritorious deeds and the units or individuals that have made outstanding contributions to the fight against narcotic drugs.<sup>131</sup>

Current and former drug users told Human Rights Watch that they are afraid to leave their place of residence because, in addition to fearing the police, they also fear their neighbors. One former detainee told Human Rights Watch, “The biggest problem for us [drug users and former detainees] is that society refuses to accept us.”<sup>132</sup> Another former detainee said, “I just want to let society know that we are people too.”<sup>133</sup>

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<sup>128</sup> Human Rights Watch interview with Hu, Yunnan, 2009.

<sup>129</sup> Human Rights Watch interview with Wei, Yunnan, 2009.

<sup>130</sup> Human Rights Watch interview with NGO worker, Yunnan, 2009.

<sup>131</sup> Anti-Drug Law of the People’s Republic of China, No. 79 of 2008, chapter I, art. 9.

<sup>132</sup> Human Rights Watch interview with Deng, Yunnan, 2009.

<sup>133</sup> Human Rights Watch interview with Chou, Yunnan, 2009.



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## “Where Darkness Knows No Limits”

### Incarceration, Ill-Treatment, and Forced Labor as Drug Rehabilitation in China

China’s new Anti-Drug Law gives local officials and security forces wide discretionary power to incarcerate individuals suspected of drug use—without trial or judicial oversight—for up to six years. Those detainees, often HIV positive, are denied adequate medical care, drug dependency treatment, and skills training to assist their re-entry into society upon release. Ostensibly “treatment” centers, they are managed by the Public Security Bureau and local police. In May 2009, UNAIDS estimated that 500,000 drug users were being detained in closed settings for compulsory detoxification and Re-education Through Labor. Human Rights Watch research has found that, in addition to being denied access to lawyers and the right to appeal their detention, in some drug detention centers, detainees are physically abused by guards and forced to work up to 18 hours a day without pay.

*“Where Darkness Knows No Limits”* details the abusive conditions suffered by detainees in China’s drug detention centers, the failure of the Chinese government to deliver on its avowed commitment to a medical-based approach to its illicit drug use and addiction problems, and the human rights violations associated with the Anti-Drug Law. The report calls on the Chinese government to immediately close these centers and develop genuinely therapeutic, voluntary, community-based, outpatient drug dependency treatment alternatives.

*Inmates sew at a compulsory drug detention center in Yunnan province.*

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