



An Unbreakable Cycle

**Drug Dependency Treatment, Mandatory
Confinement, and HIV/AIDS
in China's Guangxi Province**

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I. Executive Summary

*Nobody cares what happens to drug users. We have no human rights.
We have no hope.*

— Liu, HIV-positive former drug user, Nanning

Although drug use is illegal in China, it is considered a violation of administrative law, which states that “drug takers must be rehabilitated.” Historically, this “rehabilitation” has taken the form of the extended confinement of drug users in detoxification or re-education through labor (RTL) centers, which Chinese law requires to provide psychological and medical therapy for drug dependency. In practice, these centers provide little or no therapy and, rather than being treated as patients, drug users are treated as criminals and subject to physical, psychological, and sexual abuse; forced labor; and inhumane living conditions.

In the past five years, attention to drug users and the provision of effective drug dependency treatment, has begun to change. China has won increasing praise for its aggressive response to the HIV/AIDS epidemic. Among other efforts, the Chinese government has sharply expanded HIV prevention programs and increased the availability of “first line” HIV treatment medicines. Particularly promising have been community-based programs targeting drug users that have increased the availability of methadone therapy to address opioid drug dependency. Yet, despite these advances, harsh law enforcement practices and extended confinement of drug users in detox and RTL centers continue, impeding efforts to provide effective drug dependency therapy and ignoring the HIV prevention and treatment needs of drug users.

At the time of the founding of the People's Republic of China in 1949, it is estimated that 20 million Chinese used opium. Among its first acts in power, the new communist government launched a series of steps to combat widespread opium use, carrying out a nation-wide antidrug campaign that included the execution of those

involved in the cultivation, manufacture, or sale of opium and compulsory “treatment” (consisting largely of enforced abstinence) and vocational “training” (involving forced labor) for opium users.

Following this campaign, during a period of more than 20 years when China was isolated politically and economically from the West, illicit narcotics were virtually unobtainable. In the 1980s, however, as Chinese economic development accelerated and China began to open its borders, large quantities of opium and heroin once again entered China and widespread drug use reemerged.

In 1990, China had 70,000 registered drug users. By 2005, 1.16 million people were registered, with estimates that the actual number of drug users was more than three million. The Chinese government’s 2004 application to the Global Fund against HIV, TB and Malaria estimated that the total number of drug users was between five and six million.

Over the past decade, Chinese anti-narcotics policy has returned to post-independence approaches of executing drug traffickers and sentencing drug users to mandatory treatment and forced labor in detoxification or re-education through labor (RTL) centers. Confinement in detox and RTL centers represent the most common forms of treatment for drug dependency in China, and drug users face increasingly severe sentences for drug possession or use. These sentences are imposed administratively, with little recourse to the courts or fundamental due process rights. While the detention is ostensibly for drug dependency treatment, rarely, in fact, is any medical or psycho-social therapy available. Upon release, few community services are available to drug users; relapse immediately following detention is common.

According to official statistics, as of 2007 there were approximately 700,000 people in China with HIV/AIDS, 260,000 of them drug users. Nearly half of all new infections in 2007 were associated with injection drug use, and HIV prevalence in IDUs from Yunnan, Xinjiang, Sichuan, Guangxi, Guangdong, and Ningxia provinces is estimated to be over 10 percent; in some areas estimates are as high as 80 percent.

While the Chinese government's anti-narcotics policies have become more repressive over the past decade, the role of injection drug use in the spread of HIV in China has paradoxically resulted in the emergence of additional funding and increased attention to public health based approaches to drug addiction. In the past few years the Chinese government has announced dramatic programs to address drug addiction and HIV, including the expansion of methadone maintenance therapy and commitments to expand HIV prevention education targeting drug users. China's 1998-2010 Strategic Plan included specific goals to expand programs targeting drug users both in community settings and in detox and RTL centers. China's response to HIV is now frequently described as pragmatic and even bold.

This report examines the paradox posed by current Chinese government policies, which combine expanded HIV programs targeting IDUs and increasingly repressive anti-narcotics policy. It looks specifically at the experience of IDUs accessing HIV and drug dependency services in the community and when detained in detoxification and RTL centers, and the perspectives of government and non-governmental organization officials providing services to drug users.

Human Rights Watch conducted field research in China's southern Guangxi province and in Beijing for five weeks in July-August 2007. A researcher conducted 20 interviews with Chinese Center for Disease Control (CDC) officials, provincial and city health officials, domestic and international non-government organization (NGO) workers providing healthcare and outreach services to IDUs, a physician at a detoxification center, a former RTL guard, and health workers at methadone and AIDS clinics. In addition, nineteen IDUs who had recently been detained in detoxification or RTL centers were interviewed in the cities of Nanning and Baise in Guangxi province. This on-site research was supplemented with review of relevant Chinese HIV and anti-narcotics policies and legislation through November 2008.

Our research found that IDUs in Guangxi province face a wide range of human rights abuses in the community and when confined in detox and RTL centers, increasing their risk of becoming HIV infected and impeding their access to effective HIV or drug dependency treatment. Stigma and discrimination toward IDUs, resulting in social

marginalization and discrimination in employment, are compounded by an absence of legal recourse or access to treatment services.

Rights abuses documented in this report include:

- Arbitrary arrest of suspected drug users. Individuals reported that they were picked up off the street and arrested based on “resembling drug users” or past contact with police. Drug users were detained when accessing or leaving HIV prevention, testing or treatment centers.
- Arbitrary detention without due process protections. Individuals reported that they could be administratively sentenced to a detoxification or RTL center or a for up to three years with no clear procedures and no means of challenging the sentence.
- Mandatory testing without disclosure for HIV infection while detained in detox or RTL centers. Every formerly detained drug user interviewed reported being forced to undergo HIV testing while in confinement and none reported being told the result.
- Withholding or termination of HIV and drug dependency treatment to detainees confined in detox and RTL centers. HIV- positive former detainees reported the interruption of treatment, combined with little to no medical services and no care for opportunistic infections. No drug users interviewed reported access to opiate substitution therapy, including during acute withdrawal from heroin use. No drug users reported the availability of psychological or peer counseling for drug dependency.
- Physical abuse of drug users by guards at detox and RTL centers. Accounts from formerly detained drug users and from a former RTL guard indicate that physical abuse by guards is widespread at detox and RTL centers.
- Unpaid forced labor. Formerly detained drug users, including those who were critically ill, reported that they were forced to work grueling hours for no pay.

Because we limited the geographical scope of our investigation to conditions in Guangxi province, we cannot conclude that our findings are indicative of conditions throughout China. However, the human rights abuses we document are grounded in

and stem from national laws and policies that need to be addressed to ensure that the human rights of IDUs throughout the country are protected.

China has a responsibility to respect, protect, and fulfill, the rights of all persons within its jurisdiction in accordance with international human rights law. The Chinese government's treatment of illicit drug users, including those who are HIV positive, violates China's obligations under international law. These are derived from the international human rights treaties that China has ratified or signed, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

China is obliged to respect the right of everyone to "the enjoyment of the highest attainable standard of physical and mental health." Respect for the right to health also incorporates respect for other rights such as the right to privacy and the right to seek, receive, and impart information. With respect to the right to health of persons in custody, international standards provide that prisoners (and non-prisoners, 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.

China is also obliged to provide protection for all persons from arbitrary arrest and detention, ensure humane conditions of detention, and meet international fair trial standards. China's compulsory detoxification and re-education through labor centers violate international prohibitions on the use of unpaid forced labor.

Beyond international human rights law concerns, Chinese law requires that all patients in compulsory rehabilitation centers be provided with "medical and psychological treatment, legal education, and moral education." Yet this law is blatantly disregarded. Drug users in rehabilitation centers are treated as prisoners, not patients, and subject to abusive and inhumane conditions of confinement.

To effectively achieve its HIV goals, the Chinese government recognized that it had to expand community-based services to drug users and that these services had to include outreach, peer education, and opiate substitution therapy (such as methadone) to address drug dependency. These pragmatic efforts will fail unless anti-narcotics policies and police practices are also reformed to recognize the rights of drug users and eliminate the mandatory detention of drug users for “rehabilitation.” Otherwise, the result will be missed HIV goals, continued high rates of drug dependency, and needless death.

II. Recommendations

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

Related to detox and RTL centers

- Close detoxification and RTL centers that are extra-judicially detaining drug users and expand access to voluntary, affordable, community-based outpatient drug dependency treatment.
- Until such detoxification and RTL centers are closed:
 - Ensure that proper regulations and monitoring are in place to prevent the physical and sexual abuse of detainees by guards.
 - Provide due process protections and judicial oversight to sentencing for drug users assigned to detox, RTL or community rehabilitation.
 - Ensure access to drug dependency treatment, antiretroviral therapy, and health care generally. End mandatory HIV testing and ensure voluntary counseling and testing is available.
 - Ensure that medical staff working in detoxification and RTL 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 mandatory detoxification.
 - End forced labor in detoxification and RTL centers.

Related to community-based interventions with drug users

- Ensure that law enforcement agencies accept harm reduction initiatives and abstain from arresting 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 arrested on suspicion of being a drug user.

- Provide training to Chinese CDC 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.

To United Nations agencies and bilateral and multilateral donors providing assistance or carrying out programs on HIV/AIDS in China

- Ensure that the principles set out in the UN International Guidelines on HIV/AIDS and Human Rights, particularly those relating to discrimination and mandatory testing, are adhered to and a part of all collaborative agreements with government agencies.
- As part of a working agreement with Chinese partners, require independent monitoring to prevent discrimination against people with HIV/AIDS and end abusive conditions in forced detoxification and RTL 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.
- Give greater emphasis to programs related to counseling and legal services for people living with HIV/AIDS.
- In all AIDS education and prevention programs, distribute Chinese translations of the UN International Guidelines on HIV/AIDS and Human Rights.

III. Methodology

Human Rights Watch conducted field research in Beijing and Guangxi province for five weeks between July and August 2007. In addition to interviews with Chinese government officials and individuals conducting services and outreach to drug users, we interviewed nineteen IDUs, including 15 male and 4 female IDUs, who had been recently confined to mandatory detoxification or RTL centers in the cities of Nanning and Baise in Guangxi Province.

All participants provided oral informed consent to participate and were assured anonymity, including key informants 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 consequence. All names of IDUs quoted in this report have been changed to protect their identity and for their security.

IV. Background

HIV/AIDS in China

As of 2007 there were approximately 700,000 people in China living with HIV/AIDS.¹ Heterosexual sex and injection drug use are the main modes of infection, with each thought to account for about 40 percent of transmission.² UNAIDS and the Chinese government reported that there were an estimated 260,000 drug users living with HIV/AIDS in 2007, and over 20,000 new HIV cases among drug users that year.³

The government of China's response to the HIV/AIDS epidemic has been characterized as belated but "bold."⁴ In the past few years the Chinese government has announced dramatic programs to address drug addiction and HIV, including the expansion of methadone maintenance therapy and needle exchange and commitments to expand HIV prevention education targeting drug users.⁵ In addition, China's 1998-2010 "Strategic Plan for HIV/AIDS Prevention and Control" included a specific goal to provide, by 2002, "health education on preventing HIV/AIDS and sexually transmitted diseases at all detoxification centers and re-education centers as well as in 80 percent of jails."⁶ The government has dedicated increasing resources, supplemented by international funding, toward these goals.⁷

¹ Official government estimates suggest a range from 550,000 to 850,000, however because of the high concentration of HIV among socially marginalized populations which are difficult to track, this range may be an underestimate. See: State Council of the People's Republic of China AIDS Working Committee and The UN Theme Group on AIDS in China, "A Joint Assessment of HIV/AIDS Prevention, Treatment and Care in China," 2007.

² Ibid. The remaining 20 percent of HIV cases largely result from unsafe blood exposure and homosexual male sex.

³ Ibid.

⁴ See for example Z. Wu et al., "Evolution of China's response to HIV/AIDS," *Lancet*, vol. 24, 2007, p. 679-90.

⁵ S.G. Sullivan and Z. Wu, "Rapid scale up of harm reduction in China," *International Journal of Drug Policy*, vol. 18, no. 2, March 2007.

⁶ State Council of the People's Republic of China, "Chinese National Medium-and Long-Term Strategic Plan for HIV/AIDS Prevention and Control (1998-2010)," State Council document no. 38 (in Chinese), 1998.

⁷ Country Coordinating Mechanism of China, "Reducing HIV Transmission Among and From Vulnerable Groups and Alleviating its Impact in Seven Provinces in China. Round Four Proposal to The Global Fund against HIV, TB and Malaria," 2004.

The Chinese government has also sought to ensure that its national policies and strategic plans are implemented locally and that the rights of people living with HIV are respected. In 2006 the State Council issued “Regulations on AIDS Prevention and Treatment” that provide a legal framework for holding different levels of Chinese government accountable in the response to AIDS and set forth the rights of those infected.⁸ The State Council also issued China’s Action Plan for Reducing and Preventing the Spread of HIV/AIDS (2006-2010), which sets out to strengthen multi-sector cooperation, broaden implementation of HIV/AIDS policies, and initiate intervention for high-risk groups.

However, at the same time the Chinese government has pledged resources and support for prevention and treatment of HIV/AIDS, it has also routinely detained and harassed AIDS activists and NGOs seeking to provide direct support to people living with HIV/AIDS or conduct advocacy on their behalf. The government has made it almost impossible for truly independent NGOs, including but not limited to those focused upon HIV/AIDS, to achieve legal standing by requiring NGOs to partner with a government agency.⁹ Small grassroots NGOs have nonetheless cropped up and tried to work around these government restrictions by keeping a low profile and providing resources and services to people on a very local level. Local governments have responded by threatening and arresting staff members of these organizations, as well as people within the target community.¹⁰

In addition to preventing NGOs from reaching populations in need, the Chinese government has persecuted individuals who are working toward protecting and promoting the rights of people living with HIV/AIDS and their families. The most publicized case of government crackdown on citizens trying to advocate for people affected by HIV/AIDS is that of the human rights and AIDS activist Hu Jia, who has been either under house arrest or in detention for most of the last two years. Most recently, in December 2007, after months of house arrest, he was imprisoned, and

⁸ See: State Council of the People’s Republic of China AIDS Working Committee and The UN Theme Group on AIDS in China, “A Joint Assessment of HIV/AIDS Prevention, Treatment and Care in China,” 2007.

⁹ See: American Chamber of Commerce, “White Paper: Corporate Social Responsibility,” 2004, <http://www.amcham-china.org.cn/amcham/show/content.php?Id=351> (accessed November 13, 2008).

¹⁰ Human Rights Watch, *China—Locked Doors*, vol. 15, no. 7(C), August, 2003, <http://www.hrw.org/reports/2003/chinao803/>.

then in April 2008, sentenced to three-and-a-half years in prison for “inciting subversion against the state”.¹¹ On October 23, 2008, the European Parliament awarded Hu Jia its 2008 Sakharov Prize for Freedom of Thought.¹² Hu Jia’s wife, Zeng Jinyang, also an AIDS activist, remains under house arrest with their baby.

While the case of Hu Jia is the most prominent, and has garnered the most international interest, AIDS activists throughout China have been arbitrarily arrested and detained, or otherwise intimidated, to force them to stop working or speaking out about the AIDS epidemic and the Chinese government’s response. Globally, NGOs have an established role in national and international responses to AIDS, and are recognized as critically important to expanding universal access to prevention and treatment services to marginalized populations, and for ensuring government accountability.¹³ Although the Chinese government has taken steps to improve policies and expand services for people affected by HIV/AIDS, the perpetuation of an environment of fear and intimidation against independent NGOs in China has impeded the delivery of effective programs.

Conflicting Government Responses to HIV and Drug Use

As evidence of its increasingly pragmatic approach to addressing AIDS, the Chinese government, by the end of 2007, had established 503 methadone clinics in China with the capacity to serve 100,000 drug users.¹⁴ Similarly, needle and syringe exchange programs have been scaled-up following the State Council’s 2004 “Notice on Strengthening HIV/AIDS Prevention and Control,” which announced that “health departments are required to cooperate with bureaus of Public Security and Food and

¹¹ “China: Activist’s Jailing Spotlights Olympics’ Negative Effect on Rights” Human Rights Watch news release, April 3, 2008, http://china.hrw.org/press/news_release/china_activist_s_jailing_spotlights_olympics_negative_effect_on_rights.

¹² “Sakharov Prize 2008 awarded to Hu Jia,” European Parliament news release, October 23, 2008, http://www.europarl.europa.eu/news/expert/infopress_page/015-39974-297-10-43-902-20081020IPR39973-23-10-2008-2008-false/default_en.htm.

¹³ In a September 2007 interview with Reuters, the head of UNAIDS, Peter Piot, said: “I don’t know of any society that has dealt successfully with AIDS where civil society groups ... do not have the space to do their work.” “INTERVIEW-China needs to speed up AIDS fight - UN official,” Reuters, September 9, 2007, <http://www.alertnet.org/thenews/newsdesk/PEK4243.htm> (accessed November 18, 2008).

¹⁴ “China Makes Great Strides in Applying Methadone Therapy,” Xinhua, August 6, 2008. Estimates of the number of drug users regularly accessing methadone are unreliable. Some informants reported that the highest rates of methadone use were in provinces where police were less aggressive in detaining drug users in mandatory treatment facilities.

Drug Administration to conduct pilot programs on AIDS treatment and drug adherence, needle and syringe exchange, and social marketing of condoms in areas with high HIV prevalence among injection drug users.”¹⁵ Peer education projects, often started in conjunction with needle exchange sites, have also proliferated.

Despite these positive steps, however, the Chinese government, via the Ministry of Public Security, continues to implement repressive drug policies that undermine the effectiveness of these new health-based interventions. The Ministry of Public Security, which is responsible for anti-drug squads, and which manages the country’s network of compulsory detoxification centers, and the Ministry of Justice, which oversees the country’s network of re-education through labor (RTL) centers, pursue policies that drive drug users away from effective prevention and treatment programs.

While general policies, including sentencing guidelines for drug users and officially sanctioned prevention activities, are set on the national level, implementation varies widely between provinces. The national government organizes formal drug campaigns, but provincial and local officials have significant leeway in implementing activities and can promulgate supplemental laws according to their own needs.¹⁶ For example, in some provinces needle exchange programs have been operating for several years while in others no pilot projects exist.¹⁷ Factors influencing local response include the availability of local, national, and foreign funding for treatment-related activities, the severity of drug use and HIV epidemics in the area, and the attitudes of local and provincial authorities.

The tension between strengthened law enforcement and evidence-based public health approaches to drug dependency has been evident even in the statements of high-level government officials. In June 2004, Chinese Premier Wen Jiabao visited a drug detoxification center and said that drug users “have violated the law, but they

¹⁵ State Council of the People’s Republic of China, “State Council Notice on Strengthening HIV/AIDS Prevention and Control,” State Council Document, 2004.

¹⁶ Information Office of the State Council of the People’s Republic of China, “White Paper on Narcotics Control,” June 27, 2000, <http://www.china.org.cn/e-white/1/index.htm>, (accessed November 13, 2008).

¹⁷ Needle exchange programs were legalized in March 2004 in Yunnan province. See: Drew Thompson, “Injecting Drug Use Fueling Spread of HIV in China,” *Population Reference Bureau*, August 2004

are victims themselves.”¹⁸ By contrast, just a year later, State Council Member and Minister of Public Security Zhou Yongkang announced a new “national people's war on illicit drugs,” with a major goal of increasing the number of people sent to mandatory drug detoxification and re-education through labor centers.¹⁹

Even prior to the 2005 “war” on drugs, mandatory drug detoxification was by far the most common form of institutional “treatment” for drug use in China.²⁰ Between 1995 and 2000, China quadrupled its capacity to provide compulsory detoxification.²¹ The most recently available data from 2005 indicate that there were approximately 700 mandatory drug detoxification centers in China and 165 re-education through labor centers housing a total of more than 350,000 drug users.²²

In 2007 the Standing Committee of the National People’s Congress passed a new drug law, which went into effect in June 2008, which substantially restructures the detention system for individuals detained for administrative drug offenses, but has significant ambiguities and uncertainties regarding implementation.²³ While eliminating the use of RTL centers for the detention of drug users, the law allows up to 6 years of confinement for a single drug offense, with 1 to 3 years in ‘compulsory isolation detoxification’ (qiangzhi geli jiedusuo), followed by up to three years of ‘community rehabilitation’. Under the new law, the local head of the detoxification center determines the specific length of sentence based upon a ‘diagnostic evaluation’ of the detainee. A second evaluation at the end of this period determines the length of time a detainee must spend in community rehabilitation. “Pilot” community rehabilitation sites have been recently developed on the same sites as RTL and detoxification centers in response to the legislation and appear to be run

¹⁸ “Education, prevention crucial to drug control,” *China Daily*, June 26, 2004; “Therapeutic community new model for drug rehab treatment,” *Chinaview*, June 26, 2004.

¹⁹ National Narcotics Control Commission (NNCC), *Annual Report on Drug Control in China*, (Beijing: Beijing NNCC, 2006) [in Chinese].

²⁰ Y. Tang et al., “Opiate addiction in China: current situation and treatments,” *Addiction*, vol. 101, 2006, p. 657-665.

²¹ Y. He and N. Swanstrom, *China's War on Narcotics: Two Perspectives*, (Washington, DC: Central Asia-Caucasus Institute and Silk Road Studies Program, 2006).

²² “China Registers 740,000 Drug Addicts,” *Xinhua*, June 21, 2004, <http://www.china.org.cn/english/China/98945.htm> (accessed November 13, 2008); Y. He and N. Swanstrom, *China's War on Narcotics*.

²³ Prohibited Drugs Law of the People’s Republic of China, *Standing Committee of the 10th National People’s Congress*, 2007.

with few differences from RTL or detox, but promise to provide detainees with paid work and greater opportunities to visit and live with family (including spouses and children).²⁴ The legislation also increased police authority to conduct drug searches and a new anti-narcotics campaign initiated in 2007, entitled “Wind and Thunder Sweeping Narcotics,” provides monetary incentives to citizens to report drug use by neighbors, relatives, and community members.²⁵

HIV and Drug Use in Guangxi Province

The Guangxi Zhuang Autonomous Region is situated in southern China and has a population of 49 million people. Bordering on Vietnam and China’s Yunnan province, Guangxi is a hotspot for illicit drugs and has a high rate of injection drug use.

Guangxi has the third highest rate of HIV/AIDS in China. An estimated 92 percent of all HIV infections in Guangxi can be attributed to injection drug use. Officially Guangxi has approximately 30,000 people who are HIV positive, but local sources believe the number is closer to 120,000.

The Chinese Center for Disease Control and Prevention (CDC) operates 22 HIV/AIDS testing and treatment sites in Guangxi. None of the testing sites are anonymous or confidential, none have rapid HIV tests, and very few offer any kind of counseling. As elsewhere in China, despite advertisements announcing that tests are free, they are not free in practice. In addition to paying for viral load testing and other tests, patients also must pay all their expenses for opportunistic infections, which can range from 10 to 10,000 yuan (US\$1.20 – US\$1,200).

The capital of Guangxi province is Nanning, a city of just over one million urban residents. There are two detox centers housing an estimated 1,000 drug users annually, and three RTL centers (one for women, one exclusively for drug users, and one housing a mix of drug- and non-drug related residents) serving an estimated 3,000 drug users, including people coming from other cities. Voluntary drug

²⁴ Human Rights Watch interview with NGO official, November 2008. See also: “14 Re-education Through Labor Centers in China are Implementing Drug Treatment Pilot Programs,” Xinhua, June 26, 2007, [in Chinese] http://news.xinhuanet.com/society/2007-06/26/content_6293849.htm (accessed November 17, 2008).

²⁵ “Beijing Introduces Compulsory Urine Tests to Keep Drug Addicts Clean,” *People’s Daily Online*, September 18, 2007.

treatment facilities support approximately 150 people per year, and as of 2005 a methadone maintenance program was treating approximately 130 people.

Despite having only 5,000 registered drug users, it is estimated that there are 70,000 injection drug users (IDUs) in Nanning. A local NGO estimated that, as of 2007, 15,000 people in Nanning had tested HIV positive, but only 2,000 were receiving any treatment. Organizations providing health care to IDUs in Nanning said that, as a result of obstacles in accessing treatment, approximately three-fourths of individuals present with advanced AIDS symptoms when they come to the clinic for the first time.

Baise is a small city northwest of Nanning with a population of 325,000. In 2004 there were 466 registered drug users, although local NGOs estimate that the real number is much higher. There were 84 new HIV infections reported in 2004, 74 percent of which were believed to be related to injection drug use. Local government officials estimated that two-thirds of drug users were HIV positive. Baise has one detox center and detainees sent to RTL centers go to one of the centers in the Nanning area. Because of a large international NGO presence in Baise that specifically supports harm reduction measures, an increasing number of methadone centers and needle exchange have been established. NGOs providing HIV testing refer patients to methadone centers and offer psychological support services to IDUs coping with both addiction and HIV infection.

V. Findings

The purpose of the detox center is really just disciplinary, it's not to give people medical care.

— Physician working at detox center, Nanning

Fear of Arrest and Access to Services

China's Public Security system deploys some 17,000 policemen in anti-drug squads.²⁶ In 2004, the authorities took into custody at least 273,000 drug users. IDUs say that police frequently detain drug users based upon past contact or for simply resembling a "drug user" and require them to provide a urine sample for drug screening. Nearly all IDUs interviewed by Human Rights Watch mentioned they were afraid they would be detained and arrested on the way to or from the interview, simply for being in public.

According to drug users, the threat of being identified or picked up off the street keeps people from accessing methadone therapy and needle exchange. One HIV-positive IDU named Xiao said: "I really can't go out in public anymore because if police are trying to fill their quota they will arrest me when they see me."²⁷

IDUs also report that police wait outside pharmacies and methadone clinics to arrest people when they are trying to buy clean needles. An HIV-positive former IDU told Human Rights Watch that he had been arrested while leaving a methadone clinic on two separate occasions. An NGO worker in Nanning explained: "Everyone who takes methadone is identified by police. There is no confidentiality and IDUs are a prime target for arrest."²⁸

²⁶ Xing Bao, "Drug war intensifies," *Shanghai Star*, June 24, 2004.

²⁷ Human Rights Watch interview with Xiao, Guangxi, July 2007.

²⁸ Human Rights Watch interview with NGO workers, Guangxi, July 2007.

A government worker explained:

The police are supposed to stay away from the methadone centers but it doesn't always happen that way. Part of the point of methadone centers is that it provides a way to keep control of drug users. From this perspective it is really the law enforcement agencies that are in charge of methadone centers. We try to market people who use methadone centers as "sick people seeking medicine" but the police still see drug users as criminals.²⁹

A study in southern Guangxi Province found that police "crackdowns on drug users, committing growing numbers to detoxification centers and labor camps and driving many others underground," led to decreased use of peer education and needle and syringe exchange programs, with the average number of needles/syringes provided dropping from 12,000 per month in 2003 to 8,000 per month in 2005.³⁰ Another study, published in 2004, found that drug users intentionally swallowed watches, nails, glass, and sharp metal, including razor blades, to avoid being detained and sent to detox or RTL centers.³¹

Drug users also cite fear of arrest as a reason for not seeking HIV testing. In Nanning, the HIV testing sites are either government-run or on the Nanning CDC compound and do not offer anonymous or confidential testing. IDUs expressed concern that information given to officials when registering for an HIV test would directly lead to their arrest. An NGO trying to provide confidential testing has been frustrated by the government's insistence that it provide ID numbers and other identifying information for patients. Staff of the NGO report that they have been under constant pressure from the local government to release information that they have promised patients would be kept confidential.³²

²⁹ Human Rights Watch interview with government worker, Guangxi, July 2007.

³⁰ Committee on the Prevention of HIV Infection among Injecting Drug Users in High-Risk Countries, "Preventing HIV Infection among Injecting Drug Users in High Risk Countries: An Assessment of the Evidence," National Academies Press, 2006.

³¹ Sun Junyi, Wen Aiyu and Shen Hulili. "Analysis of 272 cases of swallowing foreign body in compulsory detoxification", *China Journal of Drug Dependence*. vol. 13, , 2004, p.221-223

³² Human Rights Watch interview with NGO worker, Guangxi, July 2007.

One consequence of this policy is that drug users do not seek treatment. An IDU named Chen who did not know his serostatus said: “Sometimes I’m afraid I might be sick with AIDS but I’d rather be sick and free than go to get tested, get arrested, and be sick in detox or RTL.”³³

Another IDU, Zhou, who was in very poor health, was afraid of both getting arrested and being discriminated against. He said: “I think I might have AIDS but I am too scared to go get tested. I don’t want to get arrested and if I do have AIDS, people will be scared of me. I’m just waiting to die.”³⁴

A former IDU named Liu reported that as he was leaving a Chinese CDC HIV/AIDS testing site in Nanning, having just been told that he was HIV positive, he was spotted by the police. He explained: “I had been using drugs and decided to go get tested for HIV. I had just come from having my blood drawn on the CDC compound and police saw that my arm had an open mark and some blood. They stopped me and put me in detox.”³⁵

IDUs also reported that the police routinely use informants to identify IDUs, and provide the informants with a percentage of the fines collected. Drug users say that informants include family members and neighbors. A former detainee named Zhou said:

It’s like the police are going fishing, using regular people as bait to catch drug users. We’re not hurting anyone but they still go fishing and that makes it even harder to be a normal person in society again. People already discriminate against you, and if your neighbors think they can get money from catching you, they will do it.³⁶

³³ Human Rights Watch interview with Chen, Guangxi, July 2007.

³⁴ Human Rights Watch interview with Zhou, Guangxi, July 2007.

³⁵ Human Rights Watch interview with Liu, Guangxi, July 2007.

³⁶ Human Rights Watch interview with Zhou, Guangxi, July 2007.

Multiple sources, including NGO workers and people who work closely with the local government, said that police are particularly aggressive in detaining drug users in the days preceding June 26, the International Day Against Drug Abuse and Illicit Trafficking. According to IDUs, on this day and other “high profile” days, they could be picked up by police based upon their past record and sent to detoxification, even if they were not currently using drugs, simply as part of efforts to increase the count of “drug users” detained. An IDU named Zhang said: “The police recognize us because we’ve been in detox before. They just pick us up off the streets and bring us to the police station.”³⁷

Such barriers to accessing health information, sterile needles/syringes, and opiate substitution therapy, which have been recognized both globally³⁸ and by China as effective, interfere with the right to obtain the highest standard of health. International law recognizes the human right to obtain lifesaving health services without fear of punishment or discrimination. Article 12(c) of the ICESCR specifically obliges states to take all steps necessary for “the prevention, treatment and control of epidemic . . . diseases,” which include “the establishment of prevention and education programmes for behaviour-related health concerns such as sexually-transmitted diseases, in particular HIV/AIDS.”³⁹

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.⁴⁰

³⁷ Human Rights Watch interview with Zhang, Guangxi, July 2007.

³⁸ World Health Organization, “Harm Reduction Approaches to Injecting Drug Use,” <http://www.who.int/hiv/topics/harm/reduction/en/> (accessed November 27, 2005); see also World Health Organization, “Policy Brief: Provision of Sterile Injecting Equipment to Reduce HIV Transmission,” 2004; and World Health Organization, “Policy Brief: Reduction of HIV Transmission through Drug Dependence Treatment to Reduce HIV Transmission,” 2004.

³⁹ UN Committee on Economic, Social and Cultural Rights, “Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights,” General Comment No. 14, The Right to the Highest Attainable Standard of Health, E/C.12/2000/4 (2000), [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/40d009901358boe2c1256915005090be?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/40d009901358boe2c1256915005090be?Opendocument) (accessed May 11, 2006), para. 16.

⁴⁰ 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). See also Human Rights Watch, *Ignorance Only: HIV/AIDS, Human Rights and Federally Funded Abstinence-Only Programs in the United States. Texas: A Case Study*, vol. 15, no. 5(g), September 2002, p. 41-42.

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.⁴¹ 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.⁴²

Assignment to Detox or RTL centers

Although drug use is illegal in China, it is considered a violation of administrative law, which dictates that "drug takers must be rehabilitated."⁴³ Prior to the enactment of the June 2008 reform of Chinese drug laws,⁴⁴ Chinese law dictated that first-time offenders be sent to a drug detoxification center for between three to six months and repeat offenders be sentenced to re-education through labor (RTL) centers for a period of from one to three years.⁴⁵

In practice, multiple sentences to detoxification centers were common, for periods of up to one year. Drug users were sentenced following a positive urine test by local authorities and had little access to due process protections. Drug users and government officials said that the decision to put a drug user in a detox or RTL center was not based upon any medical assessment or criteria, and reflected a wide range of factors including the occupancy levels of different facilities, the amount of money that a drug user or his/her family can provide for fines or fees, and past history of detention.

First-time drug users were not routinely sent to RTL centers, but drug users who had been in detox once before could be returned to detox, sent to RTL, or released. One

⁴¹ Committee on Economic, Social and Cultural Rights, General Comment No. 14, paras. 30-37.

⁴² *Ibid.*, para. 50.

⁴³ Information Office of the State Council of the People's Republic of China, "White Paper on Narcotics Control," June 27, 2000, <http://www.china.org.cn/e-white/1/index.htm> (accessed November 13, 2008).

⁴⁴ Prohibited Drugs Law of the People's Republic of China, *Standing Committee of the 10th National People's Congress*, 2007.

⁴⁵ State Council of the People's Republic of China, "Methods for Forced Detoxification," 1995, art. 5 (in Chinese).

drug user said: “If you get arrested when they have enough people in RTL then you are safe, but if you get arrested at another time, then you can be put into RTL.”⁴⁶

According to Zhang, another drug user:

One time when I got picked up by the police I just gave them money and they didn’t bring me to detox. When I got arrested after I knew I had AIDS, my family tried to give them money to keep me from detox because they were scared, but the police have quotas and so refused the money and I had to go to detox even though I was sick.⁴⁷

The detention of drug users without charge or trial violates basic principles of international law. The International Covenant on Civil and Political Rights (ICCPR), article 9, 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.”⁴⁸ 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 cases such as, for example, mental illness, vagrancy, drug addiction, educational purposes, immigration control, etc.”⁴⁹ 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.⁵⁰ 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

⁴⁶ Human Rights Watch interview with Xi, Guangxi, July 2007.

⁴⁷ Human Rights Watch interview with Zhang, Guangxi, July 2007.

⁴⁸ ICCPR, art. 10.

⁴⁹ 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,

⁵⁰ ICCPR, art. 14.

detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.”⁵¹

Conditions in Detox and RTL Centers

The lack of available therapy and prison-like conditions in drug detoxification and re-education through labor centers violate internationally accepted standards for effective drug dependency treatment. In addition, such centers facilitate the development and spread of drug resistant HIV and tuberculosis, and inflict upon drug users physical and sexual violence and psychological abuse.⁵² Most drug users are charged for their time in these facilities,⁵³ are forced to work long hours without pay, or both.

Lack of Drug Dependency Treatment

According to State Council regulations, patients in compulsory rehabilitation centers must be provided with “medical and psychological treatment, legal education and moral education.”⁵⁴ Drug users, NGO representatives, and government officials,

⁵¹ 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/instreet/g3bppedi.htm> (accessed November 13, 2008).

⁵² The UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment described conditions in RTL centers as constituting cruel and inhuman treatment “if not mental torture” and recommended that they be abolished. See: UN Economic and Social Council, “Civil and Political Rights, Including the Question of Torture and Detention: Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to China,” E/CN.4/2006/6/Add.6, March 10, 2006, para. 64.

⁵³ Costs vary widely among different detox facilities depending on the region, on whether labor is conducted by detainees, and by the ability of drug users and their families to pay. A 2002 report published in the International Journal of Drug Policy found that standard fees for food and accommodation for centers in Guangxi varied between 600 and 1600 yuan (US \$74-198) for two months of detention. See: L. Yap et al., “A rapid assessment and its implications for a needle social marketing intervention among intravenous drug users in China,” International Journal of Drug Policy, vol. 13, 2002, p.57-68. Drug users reported that when they or their families were unable to pay such fees, the length of their sentences was extended, resulting in longer periods providing unpaid forced labor.

⁵⁴ State Council of the People's Republic of China, “Methods for Forced Detoxification,” 1995, (in Chinese), art. 2; See also Information Office of the State Council of the People's Republic of China, “White Paper on Narcotics Control,” June 27, 2000, <http://www.china.org.cn/e-white/1/index.htm> (accessed November 13, 2008), which further elaborates that “the rehabilitation centers carry out strict, scientific and civilized administration according to law, adhering to the principle of saving addicts through reform education. They offer to addicts safe and scientific treatment, legal and moral education, and strict training to correct their behavior, and organize them to learn scientific and general knowledge, carry out varied and stimulating recreational and sports activities, and engage in appropriate productive labor, by which they can both improve their physical agility and master skills to earn their livings. All the income from their work is used to improve their living conditions.”

however, all agree that drug users are provided no effective medical or psychological treatment. One IDU, Kang, said:

It used to be that you could buy certain medications when you first got put into detox to help with withdrawal. But it was only given if you could pay for it. There was no supervision of it, people would just keep on buying these drugs which would help them sleep. They would become addicted to these new drugs, inside detox, and then the detox center would make money on all the people buying the withdrawal medication.⁵⁵

Another former detainee, Xiao, said:

They say that detox and RTL are supposed to be for quitting drugs, but there is no way that it is different from a normal prison. You work like a slave and don't have access to drugs.⁵⁶

The UNODC lists best practices for treating drug dependence and preventing the spread of HIV. These best practices include access to substitution therapy (such as buprenorphine and morphine) for those dependent on opiates; information on HIV prevention and treatment options; treatment for symptoms of withdrawal; confidential HIV testing and counseling; and general psychological support, among others.⁵⁷ At the detox and RTL centers in Guangxi none of these interventions were offered at the time of our interviews. The lack of standardization for detox practices around China results in a hodgepodge of different treatments, including no treatment whatsoever, Chinese herbal medicine, and electric shock therapy, but according to Chinese Ministry of Health officials, as of June 2008, methadone was not available in any detox or RTL centers in the country.⁵⁸

⁵⁵ Human Rights Watch interview with Kang, Guangxi, July 2007.

⁵⁶ Human Rights Watch interview with Xiao, Guangxi, July 2007.

⁵⁷ United Nations Office on Drugs and Crime, "Role of drug dependence treatment and rehabilitation on HIV/AIDS prevention and care," Undated, http://www.unodc.org/treatment/en/hiv_aids_prevention.html (accessed October 16, 2008).

⁵⁸ There have been some reports that individual drug users can negotiate access to methadone independently of detox or RTL center staff, but a Human Rights Watch interview with a Chinese health official in August 2008 confirmed that methadone was

A 2006 study of behavioral change of IDUs who have spent time in Chinese detox centers found no correlation between confinement in the centers and drug use.⁵⁹ Other studies have similarly found high relapse rates among those who are sent to detox and RTL centers.⁶⁰ Contributing to high relapse rates is the lack of behavioral intervention or linkage post-detention to effective community based treatment for sustained therapy.⁶¹ It is widely recognized that detoxification treatment alone is unlikely to be effective, and that counseling and the development of a “therapeutic alliance” between patient and provider is critical to sustained impact.⁶²

The failure to ensure access to methadone or other opiate substitution therapy represents not only a violation in the right to the highest attainable standard of health, but may result in violations of basic obligations to protect detainees from exposure to inhuman or degrading treatment. Forced, abrupt opioid withdrawal can cause profound mental and physical pain, and in turn, cause detainees to risk HIV and other blood-borne diseases by inducing drug users to share injection equipment to deal with withdrawal symptoms.⁶³

not provided through any facility. See: also M. Hamish, “Chinese addicts get cold turkey and herbs,” *The Age*, June 25, 2005, <http://www.theage.com.au/news/world/chinese-addicts-get-cold-turkey-and-herbs/2005/06/24/1119321904276.html> (accessed November 13, 2008).

⁵⁹ H. Liu, O. Grusky, Y. Zhu, X. Li, “Do drug users who frequently receive detoxification treatment change their risky drug use practices and sexual behavior?” *Drug and Alcohol Dependence*, vol. 84(1), 2006, p. 114-121.

⁶⁰ See: The Joint United Nations Programme on HIV/AIDS, United Nations Drug Control Program, *Drug Use and HIV Vulnerability: Policy research study in Asia* (Bangkok: Regional Centre for East Asia and the Pacific, 2000). Z. Wu et al., “Evolution of China's response to HIV/AIDS,” *Lancet*, vol. 24, 2007, p. 679-690 and Gary Reid and Genevieve Costigan, Center for Harm Reduction, Burnet Institute, “Revisiting ‘the Hidden Epidemic’: A Situation Assessment of Drug Use in Asia in the Context of HIV/AIDS,” 2002, p. 52.

⁶¹ T. Hammett, N. Bartlett, and Y. Chen, “Law Enforcement Influences on HIV Prevention for Injection Drug Users: Observations from a Cross-Border Project in China and Vietnam,” *International Journal of Drug Policy*, vol. 216, 2005, p. 235-245.

⁶² See: National Institute of Drug Abuse, *Principles of Effective Drug Addiction Treatment: A Research-Based Guide*, 1999, Principle 9, <http://www.drugabuse.gov/PDF/PODAT/PODAT.pdf> (accessed November 13, 2008) and Substance Abuse and Mental Health Services Administration/Center for Substance Abuse Treatment, Treatment Improvement Protocol (TIP) 45: *Detoxification and Substance Abuse Treatment*, vol 45, 2002, p 4-5, 23.

⁶³ See R.D. Bruce and R.A. Schleifer, “Ethical and human rights imperatives to ensure medication-assisted treatment for opioid dependence in prisons and pre-trial detention,” *International Journal of Drug Policy*, vol.19 (2008), p.17-23, and studies cited therein.

Mandatory HIV Testing

Once detained, IDUs report that they are repeatedly tested for HIV, but never provided the result. Some interviewees say that when released from detox they are told they can go to the local CDC and look up the results. An IDU named Peng said: “The local CDC came to give us an AIDS test but didn’t give the results. Nobody goes to get the results when they are released because they don’t want to get arrested right when they get out of detox.”⁶⁴

Lu, another IDU, said:

I was tested in detox twice for HIV, most recently in 2006, but was never told the result. Then when I got out I was so sick that I went to the clinic. I was scared of getting arrested but I have a son and I didn’t want to die. They tested me and told me I have AIDS.⁶⁵

IDUs report that when they tried to get information on their HIV serostatus from guards they were unable to do so. An IDU named Xue said: “When we were in detox we asked the guards if we had AIDS and they said, ‘Oh, it doesn’t matter, you won’t die that fast from AIDS.’”⁶⁶

Xiao, an HIV-positive IDU said: “I was tested for HIV every time I was in a detox center but was never told my results. Last year an NGO did free testing. That’s how I found out I have AIDS.”⁶⁷

Multiple sources confirm that testing without informing people of the result is the current Chinese CDC policy for individuals in prisons and in detox and RTL centers throughout the country. A Chinese government official said:

⁶⁴ Human Rights Watch interview with Peng, Guangxi, July 2007.

⁶⁵ Human Rights Watch interview with Lu, Guangxi, July 2007.

⁶⁶ Human Rights Watch interview with Xue, Guangxi, July 2007.

⁶⁷ Human Rights Watch interview with Xiao, Guangxi, July 2007.

The CDC does not want to tell people their HIV status when they are imprisoned because they are think it would cause unrest among the detainees.⁶⁸

A source from an international organization that works very closely with the Chinese government said:

Obviously we see this as a big issue and it has been brought up with the Ministry of Health on multiple occasions. We really haven't seen any progress on this problem. Apparently the government is concerned that if people are told their status they will demand treatment and services. All those people protesting would be too much for a detox center to handle.⁶⁹

An NGO worker told Human Rights Watch: "The government does the HIV testing in detox centers so that they will have the data. They don't use the results to help people get treatment or to help prevent an infected person from spreading it further."⁷⁰

Human rights standards set out certain due process criteria for the conduct of medical testing, such as the requirements of informed consent and confidentiality. These requirements are based on legally protected rights including those of security of person, to health, and to privacy and apply to any medical procedure, not just to HIV testing.⁷¹ HIV testing may not be performed without the explicit informed consent of the individual concerned.

⁶⁸ Human Rights Watch interview with government official, August 2008.

⁶⁹ Human Rights Watch interview with international NGO worker, Guangxi, July 2007.

⁷⁰ Human Rights Watch interview with NGO worker, Guangxi, July 2007.

⁷¹ These standards are derived from ICCPR, arts. 9 and 17(1); ICESCR, art. 12; United Nations, *Beijing Declaration and Platform for Action* (New York: United Nations Publications, 1995), A/CONF.177/20, 17 October 1995, adopted at the Fourth World Conference on Women held in Beijing, China, in September 1995 art. 108(e); Council of Europe, Convention on Human Rights and Biomedicine, adopted April 1997, CETS No. 164, art. 5; United Nations Educational, Scientific, and Cultural Organization (UNESCO), Universal Declaration on Bioethics and Human Rights, adopted October 2005, SHS/EST/05/CONF.204/3 REV, arts. 6 and 9.

Mandatory testing without disclosing the result to drug users in detention not only violates their rights, but also has severe consequences to their health, as their ability to seek appropriate care is delayed, potentially resulting in a threat to their lives.

Access to Health Care

Although HIV testing is common, drug users report that they have little access to basic health care. Hu, an IDU infected with HIV reported: “I was very worried I was going to die the last time I was in detox. There was not enough food to eat and no one was checking my CD4 count. I felt very weak and sick.”⁷²

Another IDU, Deng, said:

One reason a lot of people die in detox is that they are HIV positive, but no one is checking their CD4 count. They don’t know the symptoms of opportunistic infections [OIs]. They start getting OIs but they still have to finish their six months. They leave detox and die soon after.⁷³

IDUs uniformly say they fear getting sick and dying while in detox or RTL centers. Tang, an IDU said:

I met a lot of people in detox who have AIDS. They get sicker and sicker and then when they are almost dead they are let out. They die within 20 days. This happens often because people are already sick and they have no medical care and the detox conditions are really bad.⁷⁴

Local NGOs confirm that conditions are bleak for HIV-positive people inside detox or RTL centers. A Chinese doctor at a local NGO explained that detox and RTL centers

⁷² Human Rights Watch interview with Hu, Guangxi, July 2007.

⁷³ Human Rights Watch interview with Deng, Guangxi, July 2007.

⁷⁴ Human Rights Watch interview with Tang, Guangxi, July 2007.

are not equipped to treat basic ailments, let alone opportunistic infections and HIV/AIDS. The doctor said:

If a person looks really sick, like they could be close to death, then the detox or RTL doctor can apply for a certificate of disease. These certificates take a long time to be processed and so they are rarely used in any case. Even if a person is released, they are either just let out outside the gates or they are brought to the hospital doors. The point is that the detox center won't take any responsibility for the person's health. It is very worrisome for those of us who work in health care, because detox centers are full of Hepatitis B, Hepatitis C, and TB, but there is no adequate treatment for any of this. And of course people who are HIV positive or who have AIDS already have weakened immune systems and so being put into a detox or RTC center just puts their health even more in jeopardy.⁷⁵

One physician who had worked in a detox center stated that "if an inmate is very sick we take him to the hospital. If he doesn't have enough money the hospital won't accept him. What happens to the inmate at that point is not our responsibility."⁷⁶ The doctor added that "the purpose of the detox center is really just disciplinary, it's not to give people medical care."

One IDU, Jian, said:

The last time I was in detox I was really afraid I was going to die inside. They let me out when I was really sick. I almost died but my family took me to the doctor. Then I went to an NGO and that's how I found out that I have AIDS. If I hadn't had my family I would have died when I was let out because I was really sick.⁷⁷

⁷⁵ Human Rights Watch interview with doctor working in detox center. Guangxi, July 2007.

⁷⁶ Ibid.

⁷⁷ Human Rights Watch interview with Jian, Guangxi, July 2007.

NGO workers reported that sometimes they were able to provide follow-up care to a previous patient who had been detained or to ensure care for detained drug users who were gravely ill. An NGO worker said: “when we have a good relationship with a detox doctor sometimes we can get people out who are really sick. But other doctors don’t want to help at all.”⁷⁸

Liu, an HIV-positive IDU who had been arrested when leaving the CDC compound, reported that he had been infected with TB while in detox. He said:

I have AIDS, I had no access to medication while I was in detox and then when I left I had TB. Unfortunately this is the same story for a lot of people. People are always sicker when they leave than they were coming in.⁷⁹

IDUs uniformly say they fear being infected with TB while in detox. The IDU named Du said: “Everyone is in such a small space. If your family can pay for a TB test then you might be able to get tested, but if not you just stay there until you are really sick. In the meantime you are infecting everyone else.”⁸⁰

Chinese law requires that all patients in compulsory rehabilitation centers be provided with medical treatment.⁸¹ 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.”⁸² However, custodial conditions should not aggravate the suffering inherent in confinement.⁸³ Detainees, therefore, like all other persons, enjoy the right to the highest attainable standard of

⁷⁸ Human Rights Watch interview with NGO worker, Guangxi, July 2007.

⁷⁹ Human Rights Watch interview with Liu, Guangxi, July 2007.

⁸⁰ Human Rights Watch interview with Du, Guangxi, July 2007.

⁸¹ State Council of the People’s Republic of China, “Methods for Forced Detoxification,” 1995, art. 5.

⁸² 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.

⁸³ See UN Human Rights Committee, General Comment No. 21.

health and, in particular, the right to be treated with dignity and protected against torture and cruel, inhuman, or degrading treatment.⁸⁴

The prohibition on inhuman or 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.”⁸⁵ It has been recognized that failure to provide adequate health care or medical treatment to a detainee in prison may contribute to conditions amounting to “inhuman or degrading treatment.”⁸⁶

International legal instruments support the principle that prisoners are entitled to a standard of health care equivalent to that available in the general community, without discrimination based on their legal status.⁸⁷ The UN Committee on Economic, Social and Cultural Rights, in its commentary on the right to health, repeatedly stresses the importance of states’ obligations to ensure access to health facilities, goods, and services to all persons, “especially the most vulnerable or marginalized sections of the population,” without discrimination on the basis of “health status including HIV/AIDS” and “political, social or other status” that “has the intention or effect of nullifying or impairing equal enjoyment of the right to health.” The committee notes in particular government obligations to “refrain from denying or limiting equal access for all persons, including prisoners or detainees . . . to preventive, curative, and palliative health services,” and to abstain from “enforcing discriminatory practices as State policy.”⁸⁸

⁸⁴ See ICCPR, art. 7; see generally Convention against Torture.

⁸⁵ See ECHR, *Pantea v. Romania*, no. 33343/96, Judgment of 3 September 2003, para. 189; ECHR, *Gelfmann v. France*, para. 50.

⁸⁶ 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 v. Ukraine*, no. 72286/01, Judgment of March 28, 2006.

⁸⁷ 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, art.9.

⁸⁸ CESCR, General Comment No. 14, art. 12 (34).

Disruption of Antiretroviral Therapy

Most IDUs who were on antiretroviral therapy prior to being sent to detox report that they were unable to continue therapy while institutionalized. One IDU, Deng, who was released from detox in June 2007 said: “I started taking antiretroviral drugs (ARVs) before I was put into detox. Then when I was in [detox] I had to stop. I was really worried about my health but there was nothing I could do.”⁸⁹

Hu, an IDU on antiretroviral therapy who has been in detox many times said: “Every time I get put into detox my treatment is interrupted. Of course it is scary but what can I do about it?”⁹⁰

Two drug users said they were able to continue taking ARV while in detox, despite the lack of medical supervision. Every month a local NGO provided them with a supply of ARVs, which they subsequently kept stockpiled in their cells. Both reported that their ability to access the drugs was dependent on their relationship with guards. One IDU named Su commented: “If you have a good relationship with a guard and they know you have AIDS and are taking ARV they may be willing to let the drugs in.”⁹¹

An NGO worker in Nanning explained:

People are not treated for AIDS when they are in detox. Twenty people in a cell is not a good environment for supervising people. The infrastructure to provide treatment is just not there, the authorities wouldn't know what is happening with the drugs. When the government talks about continuing ART for people who are in detox they are referring to the few people who are already stable. For the rest, the vast majority, it's just not possible.⁹²

⁸⁹ Human Rights Watch interview with Deng, Guangxi, July 2007.

⁹⁰ Human Rights Watch interview with Hu, Guangxi, July 2007.

⁹¹ Human Rights Watch interview with Su, Guangxi, July 2007.

⁹² Human Rights Watch interview with international NGO worker, Guangxi, July 2007.

Government officials and key informants in local and international NGOs providing services to drug users in detox centers confirm that continuity of ARV treatment is on a case by case basis and largely dependent on negotiations with individual guards.

The failure to ensure access to antiretroviral therapy for drug users on treatment prior to detention may compromise their health, and ultimately their lives. Incomplete adherence to treatment can lead to resistance to antiretroviral medications and therefore a reduction in available antiretroviral therapies, and has been associated with clinical progression of HIV disease and mortality.⁹³ Similarly, the failure to provide antiretroviral therapy to those in urgent need of treatment imperils their health and risks their lives.

HIV Infection Risk

IDUs reported that they received little or no information on HIV prevention while in detox. NGO representatives we interviewed said that they had substantial difficulty consistently getting access and are unable to conduct peer-led programs. Like the provision of ARVs, their access depended solely on the cooperativeness of individual doctors and staff members at the centers.

IDUs say that in the Nanning detox centers there is virtually no education on HIV because authorities do not want to take time out of the work day. One IDU, Zhang, said:

People come to talk about AIDS prevention one day a year. It's the same day they bring in the TV cameras and the nice food. It's all to show that everything is ok in detox, even though it's all fake.⁹⁴

A staff member of an international NGO confirmed that HIV/AIDS education at detox centers is offered at least partly with the goal of showing the outside world that detox is not simply a prison. She explained:

⁹³ See World Health Organization Regional Offices for South-East Asia and the Western Pacific, "HIV/AIDS Care and Treatment for People Who Inject Drugs In Asia: A Guide to Essential Practice," p. 34 (citing studies); Matt Curtis, ed., "Delivering HIV Care and Treatment for People Who Use Drugs: Lessons from Research and Practice," Open Society Institute (New York), 2006, p.27.

⁹⁴ Human Rights Watch interview with Zhang, Guangxi, July 2007.

The first time I went to a detox center to do HIV/AIDS education I thought it was really strange that the inmates were all in a courtyard playing badminton and not seeming to live in the terrible conditions I had heard about. Then I saw the television cameras and the news crew and I realized that my talk on HIV prevention was just part of a larger propaganda campaign. Any attempts to do anything meaningful, like establish a way for people to come to our clinic and get tested when they were released from detox, were not welcomed by the detox authorities. It was very frustrating.⁹⁵

An IDU, Zhou, said of the Nanning detox center:

They don't want to take the time to tell us about AIDS or other diseases because they want us to spend all of our time working in the factory.⁹⁶

Former detainees report that many kinds of risk behaviors exist in both detox and RTL centers. IDUs uniformly say that illegal drugs are available in detox centers, although IDUs report different experiences accessing drugs, and some suggest that it has recently become harder to smuggle drugs. IDUs said that when drugs are available, mainly via guards, inmates share needles, makeshift or otherwise, due to the lack of access to clean injecting equipment. An IDU, Jian, said: "In RTL or detox, if you are there long enough you find drugs. In RTL we would have 300 people sharing one needle."⁹⁷

As with HIV treatment, the Chinese government is obligated to provide drug users in detention access to HIV prevention information and services, as part of the right to health. The Committee on Economic, Social and Cultural Rights has specifically pointed out the obligation of a state under the ICESCR to provide information and means of HIV prevention, as well as treatment, to detained drug users.⁹⁸

⁹⁵ Human Rights Watch interview with international NGO worker, Guangxi, July 2007.

⁹⁶ Human Rights Watch interview with Zhou, Guangxi, July 2007.

⁹⁷ Human Rights Watch interview with Jian, Guangxi, July 2007.

⁹⁸ CESCR, General Comment No. 14, paras. 16, 34 & 36.

General Living Conditions

IDUs who had been in detox centers in Baise and Nanning reported that they lived in 15 by 15 feet (5 x 5 meter) cells shared by as many as 30 people. In Baise, IDUs who had been in detox centers reported that they were kept locked in their cells for most of the day, while IDUs in detox in Nanning reported having been obliged to perform unpaid factory work, which they characterized as “slave labor.”

All IDUs we interviewed in Nanning expressed fear and anger about the factory work they performed. One IDU named Du said: “The detox center is a factory. We work everyday, until late in the night, even if we are sick, even if we have AIDS.”⁹⁹ Another, Rong, said: “We are supposed to be in detox to quit using drugs, but really we are just there to work as slaves.”¹⁰⁰

IDUs report that, while in detox centers, they were punished if they did not work fast enough. Punishments ranged from having food withheld, to not being allowed to sleep, to being beaten. One former detainee showed scars on his arms he suffered when he was beaten in detox for not finishing his work. Another demonstrated how guards would twist his arms behind his back, raise them, and handcuff him in that position as a punishment for not working fast enough.

IDUs said that frequently the guards would choose several inmates to act as their “little dogs.” One IDU, Chen, explained:

The guards treat their little dogs differently than everyone else. They eat better, they don’t have to work. But when the guards want to beat someone they have the little dogs do it so that if the person dies the detox center is not responsible.¹⁰¹

⁹⁹ Human Rights Watch interview with Du, Guangxi, July 2007.

¹⁰⁰ Human Rights Watch interview with Rong, Guangxi, July 2007.

¹⁰¹ Human Rights Watch interview with Chen, Guangxi, July 2007.

Another IDU, Peng, said that his uncle died in detox this way. He said: “Everyone knows it was the guards who were responsible ... but they said it was just another inmate. Now there is nothing our family can do.”¹⁰²

Zhou, a former inmate at the detox center in Nanning said:

This place is hell. We are supposed to be there for quitting drugs but instead we work like we are slaves and then get beat up. We leave detox and eventually if we don’t die, we get arrested again, and have to go through it again. My life is wasted.¹⁰³

Another IDU, Wang, said: “You can’t imagine a place as bad as detox. There are no human rights in these places. They treat us like slaves and like animals.”¹⁰⁴

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.”¹⁰⁵ No one should be subjected to cruel, inhuman, or degrading treatment or punishment.¹⁰⁶ 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,”¹⁰⁷ drug users in mandatory detoxification centers in Guangxi have not been required to do so by court order. International standards on the treatment of detainees provide that work undertaken be to a prisoners’ benefit, and that it not be subordinated to the purpose of making a financial profit for the institution.¹⁰⁸

¹⁰² Human Rights Watch interview with Peng, Guangxi, July 2007.

¹⁰³ Human Rights Watch interview with Zhou, Guangxi, July 2007.

¹⁰⁴ Human Rights Watch interview with Wang, Guangxi, July 2007.

¹⁰⁵ ICCPR, art. 10(1).

¹⁰⁶ ICCPR, art. 7; CAT, art. 16.

¹⁰⁷ ICCPR, art. 8(3)(c)(i); see also Manfred Nowak, *ICCPR Commentary*, 2nd ed., (Kehl: NP Engel, 2005), p. 204-05.

¹⁰⁸ 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).

Conditions in Re-education Through Labor (RTL) Centers

There are 165 re-education through labor (RTL) centers in China with an overall capacity to house 143,000 individuals who are typically administratively sentenced for either two or three years.¹⁰⁹ Run by the Ministry of Justice, the centers rely on labor by residents to supplement the costs of incarceration. RTL centers segregate detainees by sex and in some cases separate drug users from individuals sentenced for other administrative offenses.

Sixteen of the 19 IDUs interviewed by Human Rights Watch had been detained in RTL centers in addition to mandatory detoxification centers. Conditions in RTL centers were reported by IDUs to be nearly identical to those in detoxification and included: lack of access to effective drug dependency treatment; mandatory HIV testing without disclosure of the result; lack of access to HIV prevention information and health care, including interruption of ARVs; and significant risk of HIV infection while detained. All 16 IDUs were required to perform labor without pay.

As in detox centers, former detainees report that there is no drug dependence therapy in RTL centers. Former detainees describe RTL centers not as a places to work on overcoming addiction, but as prison factories where inhumane treatment and worsening health conditions are the order of the day. One former detainee, Peng, said: “RTL is not about drug or HIV education. RTL is just for working.”¹¹⁰

Formerly detained drug users explained that they were no closer to having a productive life upon release from RTL centers, and that, on the contrary, having been away from society for two or three years they had no skills or resources to help them reintegrate.

IDUs report that, as in detox centers, mandatory HIV testing is routine in RTL centers and they are not told their test results. A former RTL center guard said that the guards used the HIV testing data to know “which female inmates they could sleep with without using a condom.” He went on to explain: “Women in RTL need comforting,

¹⁰⁹ “China Registers 740,000 Drug Addicts,” Xinhua, June 21, 2004, <http://www.china.org.cn/english/China/98945.htm> (accessed November 13, 2008).

¹¹⁰ Human Rights Watch interview with Peng, Guangxi, July 2007.

especially the younger ones. I would sleep with them to comfort them and then give them some heroin to make them feel better.”¹¹¹

Xue, an IDU, said that despite routine HIV testing, no CD4 testing is available. “There is no CD4 count [at RTL centers]. I knew I was getting sicker but I couldn’t leave because I could still work.”¹¹²

Another IDU, Deng, said:

It’s really scary when people who are HIV positive get put into RTL. They are going to be there for two or three years and there are no CD4 counts and no ART. We are always afraid our friends are going to die.¹¹³

IDUs who had been in RTL centers report that, as in detox centers, many kinds of HIV-related risk behaviors existed, yet there is virtually no education on HIV. IDUs report that a range of illicit drugs are available in RTL centers, and sharing of needles, makeshift or otherwise, is common due to the lack of access to clean injecting equipment. One IDU said: “Family members will sometimes try to slip drugs in. Sometimes the guards know, sometimes they don’t. When I was in RTL, if we got drugs everyone would just share the needle.”¹¹⁴

Former detainees report that, as in detox centers, there is very little access to health care services, and the care that is available is for only the most basic ailments. In addition to the lack of medical services, there is no medical supervision for inmates who are HIV positive and no continuation of antiretroviral therapy. Every HIV-positive IDU we interviewed experienced an interruption in treatment while confined to RTL. One IDU named Tang said:

¹¹¹ Human Rights Watch interview with former RELC guard, Guangxi, July 2007.

¹¹² Human Rights Watch interview with Xue, Guangxi, July 2007.

¹¹³ Human Rights Watch interview with Deng, Guangxi, July 2007.

¹¹⁴ Human Rights Watch interview with Jian, Guangxi, July 2007.

I knew I was HIV positive last time I was put into RTL. People from the Nanning CDC came and took my CD4 count. They wouldn't tell me what it was. They said when I was released I could go look up all of my medical information, including the CD4 count. This made me really angry and upset. If my CD4 count was low or something was wrong, what would be the point of finding out when it was already too late?¹¹⁵

The former RTL center guard we interviewed confirmed the poor conditions in RTL centers. He said: "If people weren't working hard enough we would beat them with a one meter board, or we would just kick them or beat them with our hands. Sometimes people got beaten to death. About 10 percent of people who come into RTL centers die inside." When queried on the 10 percent figure, he explained: "Well, that's the number we said, because any higher could have been called a human rights issue."¹¹⁶

Conditions in RTL centers raise the same rights violations as conditions in detoxification discussed previously. International human rights authorities have been even more outspoken in their condemnations of RTL practices. For example, the UN Special Rapporteur on Torture has characterized forced re-education through labor in China as a form of inhuman or degrading treatment, if not mental torture, and recommended that RTL centers be abolished.¹¹⁷ The UN Committee on Economic, Social and Cultural Rights has expressed concern about the use of forced labor in RTL centers "without charge, trial or review" and recommended that its use be ended and urged that China ratify International Labour Organisation Convention No. 29 on forced or compulsory labor.¹¹⁸

¹¹⁵ Human Rights Watch interview with Tang, Guangxi, July 2007.

¹¹⁶ Human Rights Watch interview with former RELC guard, Guangxi, July 2007.

¹¹⁷ UN Economic and Social Council, "Civil and Political Rights, Including the Question of Torture and Detention: Report of the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, Mission to China," E/CN.4/2006/6/Add.6, March 10, 2006, para. 64.

¹¹⁸ UN CESCR, "Consideration of Reports Submitted by States Parties Under Articles 16 and 17 of the Covenant," E/C/12/1/Add.107, May 2005, paras. 22 and 51.

VI. Conclusion

*Quitting drugs is quitting drugs, not working like slaves. Most people have been in and out of detox and RTL centers for years, so obviously the authorities don't care about people really quitting drugs and having a better life. If they did care there would be services and help with quitting drugs inside detox and outside too. Instead people leave detox and just get arrested and put back in again.*¹¹⁹

—Lu, drug user, Nanning

Every IDU whom Human Rights Watch interviewed spoke of an unbreakable cycle of despair. They described falling into drug use accidentally, because of a lost job, harsh working conditions far from home, or curiosity. Every single IDU we interviewed spoke of regret for going down the path of drug use in the first place, entering into a cycle where the only element of consistency comes from the unrelenting pull of addiction.

While the rapid expansion of methadone maintenance programs in China has given many IDUs a new, relatively affordable treatment option, the IDUs with whom we spoke all expressed frustration and a sense of helplessness, explaining that time spent in detox and RTL centers did not help heal their addiction. On the contrary, experience in such centers marked them forever as drug users, created unconquerable levels of stigma for them on their return to society, and left them with no tools or resources to make a healthy and productive life.

Nearly all IDUs we interviewed expressed a desire for vocational training in detox or RTL centers, so that they would have skills to offer upon release. However, IDUs said that even with skills it would be difficult to get a job because employers would be able to find out about their past. Several IDUs told stories of employers yelling at them that they would not hire drug addicts. Those IDUs we interviewed who were

¹¹⁹ Human Rights Watch interview with Lu, Guangxi, July 2007.

HIV-positive said that in addition to the huge stigma faced by drug users, their AIDS diagnosis left them no chance at all of finding work.

Many of the IDUs we interviewed had been married and have children, and several IDUs became emotional during the interview when talking about not being able to get free from addiction while losing and disappointing family members. Liu, an IDU with a small child, said:

I want so badly to quit drugs. When I get out of detox it's so hard because no one will hire me, and now that I have AIDS the situation is even worse. If I could get work, if I could do something productive, I could quit drugs and help my family. But when I try to get a job people find out from the police that I was in detox and then they won't even talk to me.¹²⁰

Su, an HIV-positive drug user with a teenage son, broke into tears when talking about the effect her drug use and inability to break the addiction cycle has had on her family. She said:

I started using drugs in the early 1990s because a friend offered me some and I didn't realize what would end up happening. I want to quit more than anything. I want to have a normal life and be able to be a mother to my son. I have been wasting my life in detox but I don't know how to quit drugs. I need help but there is no help to get. Now I am sick [with AIDS] and when I go to detox I am afraid I will die inside and never see my son again. I wish I could go back and never try drugs.¹²¹

The cycle of going into detox, being released, not being able to find work, returning to drug use and then being arrested again, appears to have broken the spirit of nearly all the IDUs we spoke with. Many said they were just waiting to die. Many also

¹²⁰ Human Rights Watch interview with Liu, Guangxi, July 2007.

¹²¹ Human Rights Watch interview with Su, Guangxi, July 2007.

mentioned that their communities would not accept them. All expressed a sense of hopelessness, with no way to break the cycle.

China has the resources, the ability, and the obligation under international human rights law to provide effective drug dependency treatment and HIV prevention and treatment services to IDUs. Its decision to expand methadone clinics and strengthen peer education and HIV treatment programs has the potential to significantly reduce drug abuse and slow the spread of HIV. If, however, China simultaneously continues the widespread detention of drug users in detox and RTL centers, it will undercut those gains and leave thousands more caught in an unbreakable cycle.

VII. Acknowledgements

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