

Joint submission to the UN Working Group on Arbitrary Detention by the International Network of People who Use Drugs, Recovering Nepal, and the Indian Drug Users Forum

The International Network of people who Use Drugs (INPUD), Recovering Nepal (RN), and the Indian Drug Users Forum (IDUF) are pleased to hear the Working Group on Arbitrary Detention is in the process of compiling a study on Arbitrary Detention related to drug policies. In response to the call for stakeholder submissions, we would like to bring renewed attention to the violations of human rights suffered by people who use drugs detained in compulsory detention and private treatment centres throughout South Asia, particularly in India and Nepal. Based on our observations and firsthand accounts we believe these centres not only operate in defiance of international human rights obligations concerning arbitrary detention but also facilitate violations of the right to health and the right to be free from torture including cruel and inhumane or degrading treatment for the people detained.

States which mandate compulsory drug treatment for people known or suspected of using drugs are in violation of their human rights obligations concerning the right to liberty and security of the person. The International Guidelines on Human Rights and Drug Policy notes that “everyone has the right to liberty and security of person, and therefore to freedom from arbitrary arrest and detention”.¹ To fulfill this right, states are obligated to ensure that people are not detained solely on the basis of their usage or dependency on drugs. In South Asia, the diversion of people arrested on drug charges to private rehab centres is often portrayed as an alternative to incarceration which lifts the financial burden on the State. However, people have been suffering from the same kinds of abuses of their fundamental human rights here as they would in prison on a daily basis. Private drug treatment, being quite a lucrative business, has often covered up such abuses under the disguise of noble and humane social work.

In 2003 it was estimated by the UNODC that the South Asian region has about 400,000 injection drug users.² A recent study estimates that in 2019 that number has grown to 850,000 in India alone.³ One study in Nepal found that in the name of “Therapeutic Treatment”, staff in private rehab centres were encouraged to resort to violence against their clients who were also forced to live in unsanitary conditions. Often clients are not given proper medical care or treatment for pre-existing health conditions. There have also been reports of women detained in private rehabs who have suffered from sexual abuse from guards and other staff.

One private rehab centre in Kathmandu was the focus of a 2018 mainstream news report⁴ which discovered the facility had been operating under extremely inhumane conditions amounting to a

¹ United Nations Development Programme. *International Guidelines on Human Rights and Drug Policy*. March 14, 2019. [13].

² UN Office on Drugs and Crime. *UNODC South Asia Regional Profile*. 2003. [23].

³ Ministry of Social Justice and Empowerment – Government of India. *Magnitude of Substance Use in India, 2019*. National Drug Dependence Treatment Centre, New Delhi. 2019.

⁴ Information about this news report and the private rehab centre in Kathmandu was provided by peers and community members in Nepal, and collected by the Asian Network of People who Use Drugs

form of torture or cruel, inhumane and degrading treatment under international human rights standards⁵. People detained in such centres have regularly suffered from physical violence and have been forced into carrying out strenuous physical labor activity despite their injuries suffered at the hands of the staff. Often the clients slept on the floor of insect-infested rooms perpetually covered in urine, and in one instance a person was forced to lick their own urine under duress of the threat of physical torture. It was revealed that the centre had been covering up these abuses from the families by making the detainees pose in staged photos while eating quality food or engaging happily in holiday festivities. Clients were also threatened with physical retaliation if what was happening was ever revealed during family visits. The owner of the private rehab centre asserted that his business was certified through the Ministry of Home affairs and even after such abuses were uncovered by news reports, they continued to justify their actions by alleging security issues with clients which necessitated the violent response by the staff.

In India, the ongoing COVID-19 pandemic has resulted in harsh repercussions for people detained in private rehab centres. Just as it is with prisons, people who have been detained in private rehab centres become exposed to a high risk of infection while unable to adhere to preventative measures such as social distancing. On the 28th April an incident occurred at the Gateway of Recovery Rehabilitation Centre, in Imphal, where a client undergoing treatment died at the hands of staff after being clubbed by them for several hours.⁶ The victim had attempted to escape the facility with two others because of the harshness of the treatment and the increasing risk of COVID-19 infection. Although the accused caretakers and the owner of the centre did surrender to the police, no formal charges have been brought forth so far.

In addition to these multiple human rights violations, private rehabilitation centres have not proven to be effective at improving the health or quality of life for people using drugs. These centres are often staffed by people without specialized training, knowledge or experience working with people who use drugs⁷. In some cases, staffs are even made up of former police or military personnel. Without the kind of appropriately trained staff required, there are few evidence-based resources available on managing drug dependency for people who use drugs in these centres. A meta-analysis of drug-related deaths following release from detention or compulsory drug treatment centres found that people who inject drugs were at higher risk of relapse and overdose during the first two weeks after their release.⁸ It is well established that people are also at higher risk of HIV, hepatitis C and tuberculosis including other disease transmission in these centres.

⁵ Asian Network of People who Use Drugs. *Human Rights Day 2018 – ‘They Forced Me to Lick My Urine’: Private Drug Rehab Center Raided & Rescued Everyone*. 10 December, 2018. Retrieved at <<http://www.anpud.org/human-rights-day-2018-they-forced-me-to-lick-my-urine-private-rehab-centre-raided-and-everyone-rescued>>

⁶ This story was shared by peers in India who alerted INPUD and the IDUF about the situation.

⁷ Asian Network of People who Use Drugs. *Position paper on compulsory detention of people who use drugs*. 2016.

⁸ Gurung B, Xenos P. “In the name of creating drug free society”: a qualitative investigation on implications of drug law enforcement on harm reduction programs and people who inject drugs in Kathmandu valley, Nepal. *J Health Res*. 2016; 30(Suppl.2): S135.

Although documented evidence exposing human rights violations in private drug treatment centres throughout South Asia exists⁹, it has been difficult to expose this to the State mainly due to the way in which people who use drugs are criminalized and stigmatized in society at large. Those who have personally experienced these abuses are often silenced through fear of further retaliation.¹⁰ The heavy stigmatization and criminalization of people who use drugs means that very few people living on the outside of such impacted communities generally care about the mistreatment or are at least willing to educate themselves on the problem. Furthermore, because these centres often generate a huge profit for those who invest in them, the State is also less likely to intervene as a matter of public relations.

People do not forfeit their human rights just because they use or sell drugs. Numerous community organizations and UN agencies have called for the immediate shut down of compulsory detention centres and private rehabs in South Asia. Yet despite some minor reforms, the number of people detained in these facilities remains high throughout the region. In line with the recommendations on arbitrary detention articulated in the International Guidelines on Human Rights and Drug Policy, we firmly believe that these centres should be immediately closed and replaced with voluntary, evidence-based, public health focused drug treatment programs. Additionally, we recommend States take steps to meaningfully include and engage people who use drugs in the design, development and management of drug treatment and harm reduction programs to ensure community monitoring and oversight into their management facilitation and delivery structures.

⁹ Joint United Nations Programme on HIV/AIDS, *Joint Statement: Compulsory drug detention and rehabilitation centres*. 2012.

¹⁰ Asian Network of People who Use Drugs. *Human Rights Day 2018 – ‘They Forced Me to Lick My Urine’: Private Drug Rehab Center Raided & Rescued Everyone*. 10 December, 2018. Retrieved at <<http://www.anpud.org/human-rights-day-2018-they-forced-me-to-lick-my-urine-private-rehab-centre-raided-and-everyone-rescued>>