

PARTNERS IN CRIME: International Funding for Drug Control and Gross Violations of Human Rights



**HARM REDUCTION
INTERNATIONAL**

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**International Funding for Drug Control and Gross Violations
of Human Rights**

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ABOUT HARM REDUCTION INTERNATIONAL

Harm Reduction International is one of the leading international non-governmental organisations promoting policies and practices that reduce the health and social harms associated with drug use and the negative social, health, economic and criminal impacts of drug laws and policies on individuals, communities and society.

Our vision is a world in which individuals and communities benefit from drug laws, policies and practices that promote health, dignity and human rights.

We work to reduce drug-related harms by promoting evidence-based public health policy and practices and human rights-based approaches to drug policy through an integrated programme of research, analysis, advocacy and collaboration with civil society partners.

ABOUT HARM REDUCTION INTERNATIONAL'S HUMAN RIGHTS PROGRAMME

Our human rights programme aims to promote a human rights-based approach to international drug policy, and rights-based programming in harm reduction. We advocate for an international legal and policy environment that is conducive to the expansion of harm reduction policies and services and to the realisation of the human rights of people who use drugs and those who are affected by drug use, drug policies and the drug trade.



CONTENTS

Foreword:

Rebecca Schleifer, Advocacy Director,
Health and Human Rights Division, Human Rights Watch

Executive Summary:

Detention, Slave Labour and the Death Penalty
– Our Shared Responsibility

i

Introduction:

When Cooperation Becomes Complicity

01

1. Supply Reduction:

The Death Penalty for Drugs

03

a) Border liaison offices

05

b) Material and technical assistance

10

c) Bilateral cooperation

13

Table 1:

Examples of technical, legal or material assistance for drug control
programmes in death penalty states

14

2. Demand Reduction:

Drug Detention

17

a) Technical assistance and capacity building

20

b) Material support

25

c) Donor support as justification for the drug detention model

28

Table 2:

Examples of technical, legal or material assistance for drug
detention centres

30

3. Complicity and the Legal Responsibilities of Donor States and International Organisations

33

4. Recommendations

37

FOREWORD:

Rebecca Schleifer, Advocacy Director,
Health and Human Rights Division,
Human Rights Watch

Around the world, millions of people are locked up because of drug use. Some languish in prisons, some in compulsory treatment centres. Few have access to effective, evidence-based treatment for drug dependency if they need it. The problem is not isolated in any one part of the world, but it becomes most pernicious when international donors and UN agencies promote and fund drug detention policies that systematically deny individuals the right to due process and healthcare, and ignore forced labour and psychological and physical abuse.

The relationship of the US government and the Lao Peoples Democratic Republic (PDR) is an example.

In June 2012, with much fanfare, and just after this report was finalised, the US Government pledged a new round of funding and collaboration in Lao PDR. The US committed \$400,000 to support the Lao National Commission for Drug Control and Supervision to ‘upgrade the treatment of drug addicts at the Somsanga Treatment Center and other centers.’

The name Somsanga should ring alarm bells. Human Rights Watch conducted research in Lao PDR in 2011 as part of a series of investigations of drug detention centres. It was not easy. Lao is largely a closed country, one that permits little free speech or scrutiny of its human rights record. What the Lao government and its donors describe as a voluntary ‘health-oriented’ centre arbitrarily detains people who use drugs – including those who are

not dependent – as well as street children, the homeless, the mentally ill, and other undesirable populations behind high walls and barbed wire.

Somsanga holds most people against their will, detained by police or local militia, or ‘volunteered’ by local communist commune authorities or family members who have the mistaken belief that the centre offers therapeutic treatment, or who buckle under social pressure to make their village ‘drug free.’ Once inside, they cannot leave. Some attempt or commit suicide by ingesting glass, swallowing soap, or hanging. As Maesa, a child who spent six months in Somsanga, told Human Rights Watch: “Some people think that to die is better than staying there.”

Upgrading drug treatment and tackling crime are worthy goals. But the US should not so blithely ignore the Lao government’s history of human rights violations at the Somsanga Centre. What needs to happen is stronger legal protections that ensure people cannot be subject to arbitrary detention and torture, and the development of community and evidence-based drug dependency treatment.

Detention in government centres in the name of ‘treatment’ and ‘rehabilitation’ is not unique to Lao PDR. As this report describes, and as Human Rights Watch’s research in China, Viet Nam, Cambodia, and Lao PDR has shown, hundreds of thousands of people identified as drug users are held in drug detention centres.

Nor are such centres and what goes on inside their locked doors and high walls the only human rights abuses associated with drug enforcement funding. Thirty-two countries worldwide retain the death penalty for drug offences. China, Iran and Viet Nam are some of those that utilise the death penalty the most, and, as this report shows, all are in receipt of drug enforcement assistance from international donors and the United Nations.

Governments and drug control agencies regularly announce successes in fighting the drug trade, counted in terms of kilos of drugs seized and numbers of people prosecuted. But we rarely hear about the fate of those arrested, including how they came to be involved in the drug trade. Those sentenced to death become a statistic in drug enforcement 'successes', while passing simultaneously into human rights statistics documenting ongoing abuse.

It is a clear example of the wide gap between drug control and respect for human rights.

In recent years, due to the efforts of Harm Reduction International, Human Rights Watch and our colleagues and partners, there have been increasing calls for the closure of all drug detention centres and an end to the use of the death penalty for drugs.

But there has been little practical progress toward ending these abuses. UN agencies and international donors continue to fund activities inside drug

detention centres, and continue to support drug enforcement efforts despite their knowledge of the human rights consequences of these activities.

Scant attention has been paid to the UN and international donors' human rights obligations and ethical responsibilities with respect to drug control efforts they support, or indeed to necessary safeguards to prevent them from effectively facilitating human rights abuses in providing such support.

'Partners in Crime' makes an important contribution to addressing this gap. In providing specific examples of financial and material support provided by UN and international donors for drug control efforts, and human rights concerns raised by such support, the report compels readers to think critically about government efforts to meet their 'shared responsibility' to address drug use and drug-related crime. It should serve as a catalyst to ensure that all governments – including donors – and international actors move quickly to develop and support drug control policies that truly respect, protect, and fulfill human rights.

EXECUTIVE SUMMARY:

Detention, Slave Labour, and the Death Penalty – Our Shared Responsibility.

One of the central features of human rights is accountability. Without accountability, human rights can become no more than window-dressing.

Professor Paul Hunt¹

States are routinely reminded of their ‘shared responsibility’ to combat drug use and the drug trade – an obligation codified in international agreements aimed at supply and demand reduction. The approaches used to meet this ‘shared responsibility’, however, more often rely on law enforcement than on health care or social services. They tend to focus on punishment rather than assistance.

These approaches are flawed because not only are they ineffective, but also they have resulted in widespread human rights abuses including executions, arbitrary detention, slave labour and cruel, inhuman and degrading treatment, sometimes amounting to torture.

Human rights abuses in the context of drug enforcement are well documented, but many wealthy donor states continue to eagerly provide funding to help others live up to their international drug control obligations without ensuring that there are appropriate human rights safeguards in place. Many millions of dollars and euros in financial and technical resources, as well as intelligence and personnel, are shared across a range of political and security environments, including conflict

zones and countries with a track record of egregious human rights violations.

Much of this money goes through the United Nations Office on Drugs and Crime (UNODC). Donors contributed approximately \$273.2 million USD to the agency’s drug programme for the two-year period 2010–2011², of which \$61 million went to counter illicit trafficking, very often in environments with serious human rights risks³. These funds are accompanied by millions more in bilateral aid to governments responsible for serious human rights violations. For example, between 2000/1 and 2008/9, the United Kingdom’s Foreign and Commonwealth Office spent approximately £3,025,000 on counter-narcotics assistance in Iran⁴.

These funds are intended to reduce crime and human suffering by reducing the supply of and demand for illicit drugs. In reality, in the name of drug control, donors are supporting practices in other countries that they themselves regard as morally reprehensible and illegal. This has been the situation for many years.

Member states of the European Union, for example, oppose the death penalty.

¹P. Hunt (2008) Foreword, in H. Potts, *Accountability and the Right to the Highest Attainable Standard of Health*, Colchester: University of Essex, Human Rights Centre.

²Some of this funding goes to programmes and projects with potential benefits, such as harm reduction development.

³Consolidated budget for the biennium 2012–2013 for the United Nations Office on Drugs and Crime (UNODC), Report of the Executive Director, E/CN.7/2011/16–E/CN.15/2011/22, p. 97.

⁴Hansard source: HC Deb, 28 April 2009, c1205W. This includes money contributed through UNODC.

IN THE NAME OF DRUG CONTROL, DONORS ARE SUPPORTING PRACTICES IN OTHER COUNTRIES THAT THEY THEMSELVES REGARD AS MORALLY REPREHENSIBLE AND ILLEGAL.

However, as this report shows, funding from EU member states can facilitate death sentences and subsequent executions by hanging, firing squad or lethal injection of people for drug trafficking offences. While nobody should be sentenced to death, most often it is not the major traffickers who are condemned to die, but couriers involved in the drug trade due to a lack of options – many are coerced.

Some donors, such as Australia and the United States, strongly promote evidence-based drug treatment at home and in international settings. Australian and US government funding, however, has been spent on maintenance and staff training at drug detention centres where people are subjected to physical violence, isolation and forced labour and not provided with treatment for which there is scientific evidence of effectiveness – all in violation of international law and all illegal in their own jurisdictions.

While some governments openly criticise such human rights violations, issuing guidelines and normative statements opposing them at home, they continue to supply funds and material resources to foreign governments committing those same human rights violations.

As this report shows, alongside bilateral aid (i.e. aid given direct to governments),

a great deal of this funding is channelled through United Nations agencies, distancing the funding from its source and further from accountability for how it is spent. In this way, instead of being a guardian of human rights the United Nations is reduced to a buffer between donor states' human rights obligations and the impacts of their funds on the ground.

Given the serious and, in some cases, systematic human rights violations committed in the context of drug enforcement, donor states should never provide money, technical assistance, material resources or intelligence to drug control without due diligence to ensure that such aid does not facilitate abuses. Far too often, such due diligence is absent or insufficient.

The implementation of such safeguards is realistic. UNODC has recently developed its own internal guidance on human rights, which is intended to be put into practice with concrete programming tools. In addition, UNODC joined eleven other agencies in 2012 to call for the closure of drug detention centres. This is important

Funding from EU member states can facilitate death sentences and subsequent executions by hanging, firing squad or lethal injection of people for drug trafficking offences.

INSTEAD OF BEING A GUARDIAN OF HUMAN RIGHTS THE UNITED NATIONS IS REDUCED TO A BUFFER BETWEEN DONOR STATES' HUMAN RIGHTS OBLIGATIONS AND THE IMPACTS OF THEIR FUNDS ON THE GROUND.

progress. Nevertheless, this report shows that these positions are not adequately reflected in UNODC operations, despite the agency being aware of the potential for abuse for many years.

Additional models for human rights safeguards are being developed by donor states. In late 2011, the UK's Foreign and Commonwealth Office began using human rights guidance for its Overseas Security and Justice Assistance, which is intended to identify human rights risks in advance and to mitigate those risks or even halt assistance if such mitigation steps will not effectively address concerns.

These are just a few noteworthy examples in an otherwise unremarkable environment. Too often human rights guidance in drug control is unofficial, ad hoc or without formal 'red lines' around outcomes to be avoided.

This is not just a matter of double standards, it is also a matter of law. International law forbids states and international organisations from aiding

or assisting in internationally wrongful acts (i.e., those acts that breach an international obligation, including human rights law).

This report focuses on two illustrative cases: the death penalty and drug detention centres. These cases demonstrate the links between international funding for drug control and violations of the right to life; freedom from torture and cruel, inhuman or degrading treatment; freedom from arbitrary detention; and freedom from slavery or forced labour. They are not the only areas where international funding raises human rights concerns, but they are two clear examples that highlight the need for greater oversight to prevent states aiding or assisting human rights violations with euros or dollars.

The consequences are far from abstract; they can be measured in the lives and health of thousands of people in many countries around the world.

Detainees have reported being beaten with bricks or whipped, undergoing painful withdrawal from drugs without medical assistance, administration of unknown medications, beatings, participation in experimental trials with no informed consent and degrading treatment such as being forced to crawl through animal excrement or made to swallow dirty water.



RECOMMENDATIONS

Donor states and implementing agencies, including UN agencies, should:

- **ADOPT** clear policy guidelines rooted in international human rights standards for financial, technical and other assistance provided for drug enforcement, demand reduction or related projects (such as HIV-focused programming) in recipient states.
- **AUDIT** all current funding and programmatic activities for compliance with adopted policies to ensure that no funding or programmes contribute (directly or indirectly) to violations of international human rights law, including the right to life and prohibitions on arbitrary detention, forced labour, torture and cruel, inhuman or degrading treatment or punishment.
- **TAKE IMMEDIATE ACTION** on problems identified in the audit and freeze support where governments refuse to put an end to abuses.
- **IMPLEMENT** a transparent system of human rights impact assessments to include initial predictive risk assessments; action on identified risks throughout the lifetime of projects; and evaluation of each project set against the identified risks and actions taken.

INTRODUCTION:

When Co-operation Becomes Complicity

Human rights abuses related to drug enforcement are well documented.⁵ Executions, arbitrary or forced detention, beatings and slave labour are just a few examples. At the same time millions of dollars and euros in international aid go to support drug enforcement efforts, a manifestation of the ‘shared responsibility’ for addressing the ‘world drug problem’.⁶ This report focuses on the intersection of human rights abuses, funding from donor states and UN assistance. It asks a question that has received far too little attention in both human rights and drug policy discussions:

When does cooperation against the drug trade and drug dependence become complicity in human rights abuses?

The death penalty for drug offences and the arbitrary detention and routine abuse of people in drug detention centres exemplify the problem and represent activities in both supply and demand reduction, which are the twin pillars of drug control. In jurisdictions where the death penalty is applied for drug offences, financial or technical assistance can facilitate violations of the right to life contrary to a donor’s own legal obligations. In countries where people are detained in drug detention centres

and forced to work, there is a great risk that donors may be complicit in violations of the absolute prohibitions on arbitrary detention and forced labour.

While death sentences and drug detention are the focus of this report, many other examples could be found.⁷

In certain instances the concern is one of proximity, such as when support is offered in a context where it is known that human rights violations are taking place. It may be difficult to link financial assistance for a certain law enforcement programme to specific violations, such as individuals executed, but the issue is one of risk and of legitimising abusive practices with international support.

In other cases there is a more direct connection between funding and specific abuses, such as when aid is provided to build detention centres or when donors identify and highlight an individual arrest, later followed by execution, as a ‘larger success’.⁸ Some recipient governments have reported to the UN on their extradition of suspects to places where they are likely to face capital punishment; these extraditions are sometimes presented as ‘evidence of achievement’ of a certain programme.

⁵For example, D. Wolfe and R. Saucier (eds.) (2009) *At What Cost? HIV and Human Rights Consequences of the Global “War on Drugs”*, New York: Open Society Institute.

⁶This type of language is repeated in political statements and resolutions. See, for example, Resolution 54/12: Revitalization of the principle of common and shared responsibility in countering the world drug problem.

⁷For example, support for the eradication of illicit crops, which can lead to poisoning of legitimate crops, massive internal displacement and abuses perpetrated by the police or military engaged in the crop control.

⁸See UNODC (n.d.) Poster Series, MOU Countries of S.E. Asia, copy on file with authors.

When asked, donors and implementing agencies are rarely able to show that they have any safeguards to ensure that their aid did not facilitate abuse, nor do they have systems to report on human rights violations against project 'beneficiaries' that are witnessed by project staff. This situation emphasises the need for thorough due diligence and clear guidelines to ensure that financial support does not aid or assist in human rights

violations in either bilateral or multilateral drug control efforts.

Governments and international agencies may describe human rights violations in the name of drug control as 'unintended consequences'. To acknowledge such consequences, however, and carry on regardless is negligent at best. To turn a blind eye is to be complicit.

GOVERNMENTS AND INTERNATIONAL AGENCIES MAY DESCRIBE HUMAN RIGHTS VIOLATIONS IN THE NAME OF DRUG CONTROL AS 'UNINTENDED CONSEQUENCES'. TO ACKNOWLEDGE SUCH CONSEQUENCES, HOWEVER, AND CARRY ON REGARDLESS IS NEGLIGENT AT BEST. TO TURN A BLIND EYE IS TO BE COMPLICIT.

1. SUPPLY REDUCTION: The Death Penalty for Drugs

UN human rights authorities have stated clearly that the death penalty cannot be applied for offences that do not qualify as ‘most serious’, as enshrined in the International Covenant on Civil and Political Rights, a core international human rights treaty. It is well established by human rights monitors and practice among the vast majority of states that drug trafficking does not meet this threshold.⁹ The death penalty for drug crimes has been recognised as a violation of the right to life by the UN Human Rights Committee (HRC)¹⁰; the UN Office on Drugs and Crime (UNODC)¹¹; UN independent human rights monitors¹²; and many others.

Nevertheless, there are thirty-two countries or territories with capital drug laws in force, though in practice only a small number of national governments actually carry out executions for drugs each year – perhaps fewer than seven or eight. These governments defend the death penalty by claiming that such laws are intended to capture major kingpins. Yet all too often those sentenced to death and executed are minor players – exploited (including by basic poverty and lack of other options), duped or coerced into carrying drugs.

Moreover, among this small group of states with capital drug laws, are the recipients of millions of dollars, British pounds and euros in counter-narcotics aid. These states include China, Iran and Viet Nam. Some of this aid is provided by governments opposed to the death penalty and/or legally bound not to apply it at home.

Types of assistance that can facilitate the application of capital punishment vary but include the development of border liaison offices, which are border posts and hubs for exchange of information and joint operations with counterparts in neighbouring countries. Funding from international donors, and often through the UN, also typically includes capacity-building projects and provision of material aid such as sniffer dogs, vehicles, airport scanners and drug testing kits – all of which can directly contribute to the capture of people who will face capital punishment.

Individually, some donor states that are opposed to the practice will take steps to ensure that their aid will not lead to the death penalty. For example, the UK’s Foreign and Commonwealth Office has implemented an Overseas Security and

⁹Human Rights Committee (HRC) (8 July 2005) Concluding observations: Thailand, CCPR/CO/84/THA, para. 14; HRC (29 August 2007) Concluding observations: Sudan, CCPR/C/SDN/CO/3, para. 19.

¹⁰Ibid.

¹¹UNODC (2010) Drug control, crime prevention and criminal justice: a human rights perspective. Note by the Executive Director (Commission on Narcotic Drugs, Fifty-third session, Vienna, 8–12 March) E/CN.7/2010/CRP.6*–E/CN.15/2010/CRP.1*.

¹²UN Commission on Human Rights (24 December 1996) Extrajudicial, summary or arbitrary executions: report by the Special Rapporteur, submitted pursuant to Commission on Human Rights Resolution 1996/74, E/CN.4/1997/60; UN Human Rights Council (29 January 2007) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/4/20, paras. 51–2; HRC (18 June 2010) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum: Communications to and from governments, A/HRC/14/24/Add.1, pp. 45–6; UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (6 August 2010) A/65/255, para. 17.

Justice Assistance guidance document, which applies to drug control. The guidance establishes a process that includes assessment of contextual risk, identification of legal risks associated with a project and steps to mitigate the risk or to decide whether to proceed at all. The death penalty is included as a thematic consideration in the assessment.

The document states:

While UK assistance overseas in the field of security and justice can help achieve both security and human rights objectives in a particular country (e.g. effective investigation of a specific crime, protecting the public, proportionate use of force, enhancing procedural fairness in criminal trials, reforming a corrupt and dysfunctional armed force or police service), the assistance itself can sometimes present human rights risks, which in certain circumstances may give rise to legal, policy or reputational risks for the UK.¹³

In other countries, there are strict rules pertaining to mutual legal assistance in death penalty situations, which in some circumstances could require the taking of advice from senior government ministers or law enforcement personnel before

assistance is provided. For example, the revised guidelines of the Australian Federal Police (AFP) on international police-to-police assistance in death penalty situations 'require senior AFP management to take account of a series of relevant factors, before providing assistance in potential death penalty scenarios'.¹⁴

Other governments are cautious about which sectors they will support given human rights concerns, and will avoid providing aid to law enforcement authorities when such assistance can result in violations.

Sometimes these steps are a matter of policy. In others they are made on a case-by-case basis. At issue here is the efficacy of these steps, the absence of any steps among other donors and the deficiency of comparable safeguards when drug enforcement is pursued multilaterally, through agencies like the UN Office on Drugs and Crime.

In some cases, rather than being a guardian of human rights, the United Nations represents a buffer between a donor state's own human rights obligations and the abuses that occur in the recipient state. Indeed, some states

¹³HM Government, Overseas Security and Justice Assistance (2011) Human Rights Guidance, para. 3.

¹⁴For a discussion on the tension between the efficacy of guidance and the ability to avoid facilitating the imposition of capital punishment, see R. Sifris (2007) Balancing abolitionism and cooperation on the world's scale: the case of the Bali Nine, Federal Law Review 36, pp. 81–109; L. Finlay (2011) Exporting the death penalty? Reconciling international police cooperation and the abolition of the death penalty in Australia, Sydney Law Review 33(1), pp. 95–118.

may refuse to fund a certain country's drug control efforts bilaterally due to human rights concerns, but appear to support similar activities in the same country through the UN. In adding a further layer bureaucracy, the UN serves to shield donor states from the human rights consequences of their drug enforcement funding, and to further remove donors from accountability.

a) Border liaison offices

Border liaison offices have become a flagship operation of the UN Office on Drugs and Crime over the past twenty years. In 1993, the Executive Director of UNODC (then known as UNDCP, the UN Drug Control Programme) met with representatives of the governments of China, Lao PDR, Myanmar and Thailand, to sign a 'memorandum of understanding' on drug control, which included cross-border cooperation.¹⁵ UNODC has since offered technical assistance – with financial aid from the US, the UK, the European Commission, Australia, Canada, Sweden and Japan – to develop border liaison offices (BLOs) between these signatory states.

According to UNODC:

BLOs are typically staffed by five to seven officers from frontline law enforcement agencies including narcotics, border, local and immigration police as well as customs officers. BLO officers patrol the borders and serve as focal points for relaying important intelligence information to their counterparts. BLOs promote communication and cooperation between different national law enforcement

*agencies working along the border. They also foster greater cross-border law enforcement cooperation through the sharing of real time information on drug traffickers to enable fast and effective intervention by law enforcement officers on the other side of the border.*¹⁷

By UNODC's own measures of success – such as kilograms seized and people arrested – BLOs have been fairly successful. In human rights terms, however, the project has been lacking in safeguards and has contributed to the extradition and execution of individuals despite the ostensible opposition of the UN and most of its donors to capital punishment. The arrests of Han Yongwan and Tan Xiaolin offer examples of how UN technical assistance has gone wrong.

The capture of Han Yongwan, a well-known trafficker who was apprehended by Lao PDR authorities in September 2005 as part of a joint operation with China, Thailand and Myanmar, was initially celebrated as a 'larger success' by UNODC.¹⁸ Through cooperation with the BLO programme, Mr Han was extradited to China, where he was executed on 26 June 2008 to mark the UN's International Day Against Drug Abuse and Illicit Drug Trafficking.¹⁹ According to UNODC, under the same initiative, '[B]y the end of 2006, China, Lao PDR and Viet Nam had carried out almost 100 joint operations in the border areas. Four hundred (400) drug traffickers and users were arrested during the joint operations.'²⁰

Tan Xiaolin (also known as Tan Minglin²¹) was arrested in Myanmar following

¹⁵Viet Nam and Cambodia were later added to this MOU.

¹⁷Ibid., p. 4.

¹⁸UNODC (n.d.) Poster Series, MOU Countries of S.E. Asia, copy on file with authors.

¹⁹Xinhua News Agency (19 January 2007) Court hears cross-border heroin trafficking case; Xinhua News Agency (27 June 2008) China executes six drug dealers.

²⁰UNODC (n.d.) Border Liaison Offices in Southeast Asia 1999–2009, op. cit., p. 9.

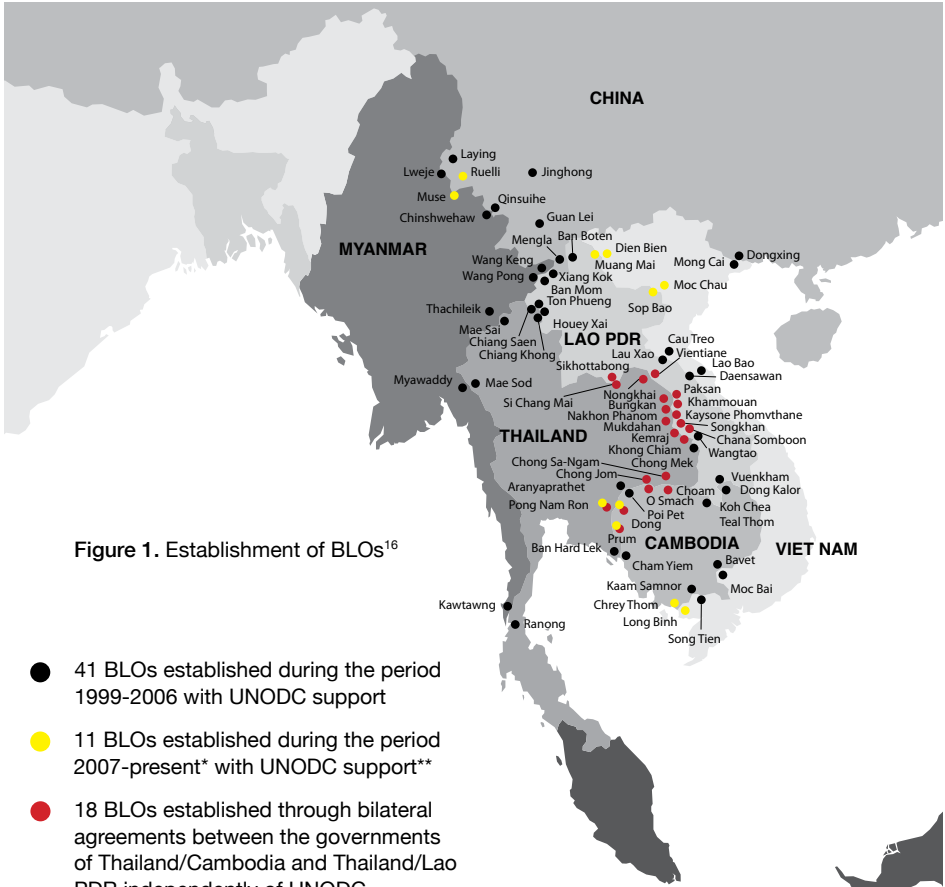


Figure 1. Establishment of BLOs¹⁶

- 41 BLOs established during the period 1999-2006 with UNODC support
- 11 BLOs established during the period 2007-present* with UNODC support**
- 18 BLOs established through bilateral agreements between the governments of Thailand/Cambodia and Thailand/Lao PDR independently of UNODC

70 BLOs are in operation in the Greater Mekon Sub-region.

The independent establishment of BLOs by the countries of the Greater Mekong Sub-region reflects the success of the border liason office concept and its potential for long term sustainability. 52 BLOs have so far received assistance from UNODC

*as of February 2006

** 3 BLOs have subsequently been maintained by bilateral agreement between Thailand and Cambodia

¹⁶Adapted from UNODC (n.d.) Border Liaison Offices in Southeast Asia 1999–2009: Ten Years of Fighting Transnational Organized Crime, p. 5, available online at: www.unodc.org/documents/eastasiaandpacific/2010/07/bo-cambodia/Border_Book_final_6mar09.pdf (date of last access: 13 July 2012).

DESPITE THE APPARENT CONCERNS OF THE UN OFFICE ON DRUGS AND CRIME, ITS PROJECTS CONTINUE TO FACILITATE THE EXTRADITION OF DRUG OFFENDERS TO STATES WHERE THEY MAY BE EXECUTED.

collaboration between the then-UNDCP's regional office and the relevant border liaison offices.²² He was also handed over to the Chinese authorities, tried and sentenced to death for drug trafficking on 10 May 2004. He was executed in June of that year to commemorate the UN International Day Against Drug Abuse and Illicit Drug Trafficking.²³ China has historically marked the UN's 'anti-drugs' day by sentencing accused drug traffickers to death and carrying out executions.

UNODC celebrated the Han Yongwan capture on a poster that was proudly displayed in 2009 at the High Level Segment of the UN Commission on Narcotic Drugs. This poster extolled the success of BLOs and included a picture of the suspect, shackled and hooded, being handed over to Chinese authorities (see Figure 2).²⁴

Harm Reduction International and Human Rights Watch brought these issues to UNODC's attention in 2008. The agency issued various policy statements in response and it has since taken steps to improve its internal guidance. In 2008,

Executive Director Antonio Maria Costa took a firm stand in opposition to the death penalty, stating, 'UNODC believes people should not be executed for drug-related crimes. Although drugs kill, we should not kill because of drugs.'²⁵

This position was reaffirmed in 2010, when Executive Director Costa wrote, 'As an entity of the United Nations system, UNODC advocates the abolition of the death penalty and calls upon Member States to follow international standards concerning prohibition of the death penalty for offences of a drug-related or purely economic nature.'²⁷

But these policy statements have proven insufficient to prevent further abuses. In fact, UNODC projects continue to facilitate the extradition of drug offenders to states where they may be executed, and BLOs continue to be scaled up without human rights safeguards.

In 2010, for example, the government of Myanmar, disclosed that its border liaison offices had handed over 128 people to Chinese authorities.²⁸ When asked by Harm Reduction International if any

²¹L. Xinzheng (1 July 2004) Saying no to drugs, Beijing Review 47(26), pp. 20–4.

²²UNODC (2002) Border liaison offices in operation, UNDCP Regional Office for East Asia and the Pacific, internal doc. 17/2002, p. 7.

²³Noting execution in April 2004 of Tan Xiaolin, see K.L. Chin and S.X. Zhang (2007) The Chinese Connection: Cross-Border Drug Trafficking between Myanmar and China, US Department of Justice Doc. 218254 89. Noting execution in April 2004 of Tan Minglin, see China Daily (25 June 2004) Dozens of drug dealers executed.

²⁴UNODC (n.d.) Poster Series, MOU Countries of S.E. Asia, copy on file with authors.

²⁵Ibid.

²⁶UNODC (10 December 2008) Press release: UNODC supports UN rights declaration.

²⁷UNODC (2010) Drug control, crime prevention and criminal justice: a human rights perspective. Note by the Executive Director (Commission on Narcotic Drugs, Fifty-third session, Vienna, 8–12 March 2010), UN Doc. E/CN.7/2010/CRP.6–E/CN.15/2010/CRP.1*. Executive Director Fedotov has yet to call explicitly for an end to the death penalty for drug offences, while the International Narcotics Control Board, the treaty body for the UN drug conventions, has stated that it is neither for nor against the practice. See P. Gallahue, Inter Press Service (28 March 2012) Narcotics Watchdog turns a blind eye to rights abuses



Figure 2: Handover ceremony for Han Yongwan (centre: hooded), later executed in China to mark UN day against drugs. Picture used in UNODC poster exhibition at the UN Commission on Narcotic Drugs, Vienna, 2009

attempt had been made to ensure that those extradited had not been sentenced to death or executed, UNODC responded only that human rights training of law enforcement officers had been included in its programmes.

The response states:

We understand that a number of people have been returned from Myanmar to China while we do not have official information on this. We are informed that these individuals are Chinese nationals who had been returned for drug-related offences which are alleged to have taken place in Myanmar. As part of our efforts to mainstream human rights-based programming to UNODC's operational work on the ground, I am pleased to inform you that the UNODC Regional Centre for East Asia and the Pacific has recently partnered with the Office of the High Commissioner for Human Rights (OHCHR) to implement training on human rights for law enforcement officials.²⁹

UNODC border liaison office projects also carry significant human rights risks outside of East Asia. For example, the European Commission and the government of Austria jointly funded a UNODC project entitled 'Strengthening

Afghan-Iran Drug Border Control and Cross Border Cooperation' from 2004 to 2008.³⁰ The project was designed 'to facilitate the equipping of border control posts along the international border between Afghanistan and Iran.' Under the project, 'The governments of Iran and Afghanistan ... adopted a bilateral agreement for Iran to build twenty-five border posts within the Afghan territory ... [to] enhance the capacity of the Afghan Border Police to reduce the flow of drugs at the Afghanistan/Iran border.'³¹

During the lifetime of the project, sixteen Afghan children were arrested by Iranian border authorities, convicted of trafficking drugs across the Afghanistan/Iran border and sentenced to death by hanging in Iran.³² While there is not necessarily a direct linkage between the police training and executions, the example illustrates the human rights environment in which such projects are run without appropriate safeguards.

During the lifetime of the project, sixteen Afghan children were arrested by Iranian border authorities, convicted of trafficking drugs across the Afghanistan/Iran border and sentenced to death by hanging in Iran.

²⁹UNODC (2010) Report on a Regional Seminar on Cross Border Cooperation, Law Enforcement Cooperation and Computer Based Training, p. 43.

³⁰On file with authors.

³¹UNODC Country Office for Afghanistan (March 2007) Afghanistan: Counter-narcotics law enforcement update 6, p. 1.

³²Ibid., pp. 1-2.

³³BBC News (4 October 2007) Afghanistan: paper fears child drug smugglers face hanging in Iran.

The Iranian government has executed well over 10,000 drug offenders since the 1979 revolution – more than 1,000 were executed from the beginning of 2010 through 2011.

Other funding to reduce drug trafficking from Afghanistan may also have led to death sentences and executions in Iran. For example, under a grant, AFG/H16, Austria, Canada, the EU and Germany provided more than \$4 million USD to secure the Iran/Afghanistan border, which included border posts in Nimruz province. The project involved trainings, the development of an electronic network to communicate between posts and the provision of search equipment, drug and precursor test kits, night vision goggles, vehicles and other equipment. This project also included capacity building for Afghan and Iranian border control forces.³³ In 2011, Iran's Drug Control Headquarters reported numerous arrests at the Nimruz checkpoint in 'simultaneous operation with Afghanistan'.³⁴ Arrests were also reported at other checkpoints in regions that received international support under the project.³⁵

Similar border liaison offices have been established with international support in Dogharun, along the Iran/Afghanistan border, and Zahedan, capital of the

Sistan-Baluchistan province on the Iran/Pakistan border.³⁶ Through data compiled and made available by Iran Human Rights and cross-checked against other sources, Harm Reduction International identified twenty-four hangings in Zahedan for drug offences between 2007 and 2009.³⁷ According to Iran Human Rights, people are often executed, without due process, where they are caught.³⁸

The Iranian government is among the world's leaders in executions of drug offenders, having hanged more than 10,000 individuals since the 1979 revolution³⁹ – executing at an accelerating pace in recent years.⁴⁰ More than 1,000 drug offenders were executed in Iran from the beginning of 2010 through 2011.⁴¹

Instead of public expressions of concern or condemnation of these executions, however, UNODC has emphasised Iran's 'success'. In 2010, for example, UNODC boasted of its 'technical and secretarial support to the Joint Planning Cell', which helped lead to the arrest of sixty-one people.⁴² Harm Reduction International

³³UNODC (n.d.) AFGH16, Strengthening Afghan-Iran drug border control and cross border cooperation (SAID), 2007 Annual Project Progress Report, copy on file with authors.

³⁴Iran Drug Control Headquarters (2012) Annual Report, Islamic Republic of Iran: Drug Control in 2011, p. 65.

³⁵Ibid.

³⁶UNODC (31 July 2009) Semi-annual project progress report, copy on file with authors.

³⁷Many of these incidents are posted on the website of Iran Human Rights: <http://iranhr.net>.

³⁸Communication with author (September 2009).

³⁹US Department of State (1 March 2010) 2010 International Narcotics Control Strategy Report. Volume I (2010 INCSR). The bureau attributes these figures to Iranian government sources.

⁴⁰See P. Gallahue (2011) *The Death Penalty for Drug Offences: Global Overview 2011 – Shared Responsibility and Shared Consequences*, London: Harm Reduction International.

⁴¹See, for example, Iran Human Rights (2011) Annual Report: Death Penalty in Iran; P. Gallahue (2011) *The Death Penalty for Drug Offences: Global Overview 2011*, op. cit.; Amnesty International (15 December 2011) *Addicted to death: executions for drugs offences in Iran*.

⁴²UNODC (n.d.) Key Results of UNODC Cooperation on Drug Supply Reduction in the Islamic Republic of Iran (2005–2010).

THROUGH A UNODC PROJECT THE FRENCH GOVERNMENT SUPPLIED IRAN WITH DRUG SNIFFING DOGS. ACCORDING TO UNODC, 'IN 2010, DRUG DETECTING DOG UNITS HAVE SEIZED MORE THAN 33 TONS OF DIFFERENT DRUGS, EQUAL TO ALMOST 8% OF THE TOTAL SEIZURES MADE IN THE COUNTRY DURING THE SAME PERIOD.'

asked UNODC whether any of these people had been sentenced to death or executed. To date, UNODC has declined to respond.⁴³

b) Material and technical assistance

Contributions to drug control programmes may range from large financial donations to smaller material assistance including body scanners, drug sniffer dogs, drug testing kits, night vision goggles, vehicles and much more. Such assistance is intended to increase seizures and arrests. The same human rights risks follow when this equipment is used in death penalty states, but this is frequently unacknowledged by those making or receiving the contributions. In fact, human rights authorities in the donor countries will often decry abuses committed by certain governments at the same time as national departments or agencies are providing those same governments with training and resources.

As with border liaison offices, some of the most problematic support has gone to Iran. According to the UK's Foreign

Minister at the time, 'Between the financial years 2000-01 and 2008-09 the Foreign and Commonwealth Office has spent approximately £3,025,000 on counter-narcotics assistance in and with Iran.'⁴⁴

Through UNODC project IRNI50, France supplied Iran's anti-narcotics forces with drug sniffer dogs.⁴⁵ The canines were trained for a month in Iran with a French expert⁴⁶ and then deployed to checkpoints and border posts.⁴⁷ Iran's government also worked with the embassies of Germany and Hungary to organise a study visit for Iranian authorities to police academy dog-training centres in Hessen, Germany and Dunakeszi, Hungary in late 2010,⁴⁸ with the visits helping Iranian customs officials to familiarise themselves with the 'most scientific techniques to use sniffing dogs'.⁴⁹

These dogs have been involved in numerous major seizures involving tonnes of illicit drugs.⁵⁰ According to UNODC, 'In 2010, drug detecting dog units have seized more than 33 tons of

⁴³Correspondence on file with authors.

⁴⁴Hansard source: HC Deb, 28 April 2009, c1205W. This includes money contributed through UNODC.

⁴⁵République Française (n.d.) Cooperation against drug trafficking: a new step in the cooperation between France and Iran against drug trafficking, available online at: www.ambafrance-ir.org/article.php3?id_article=617 (date of last access: 30 June 2011); Iran, information document on behalf of the Political Committee by Josette Durrieu (France, Socialist Group), Doc. A/2078, 28 June 2010, at Section VII, available online at: www.assembly-wcu.org/en/documents/sessions_ordinaires/rpt/2010/2078.php?PHPSESSID=f4dced2b91df166f3a973bbc25f527f#P322_73662 (date of last access: 30 June 2011).

⁴⁶République Française, Cooperation against drug trafficking, op. cit.

⁴⁷UNODC, 2008 Annual Project Progress Report, INRI50, copy on file with authors.

⁴⁸UNODC, 2010 Annual Project Progress Report, IRNI50 – Integrated border control in the Islamic Republic of Iran – Phase I, copy on file with authors.

⁴⁹Iran Drug Control Headquarters (2012) Annual Report, Islamic Republic of Iran: Drug Control in 2011.

⁵⁰*Ibid.*

Under UNODC project VIE/G55, a study tour was organised to expose Vietnamese officials to the Singaporean approach in dealing with drug trafficking. Singapore's 'approach' to drugs includes caning of drug users and a mandatory death penalty against low-level drug mules caught with quantities exceeding just 15 grams.

different drugs, equal to almost 8% of the total seizures made in the country during the same period.⁵¹ The number of seizures involving drug-sniffing dogs rose significantly in 2011.⁵² Executions also rose during this period. The governments supporting the project, and those visited on study tours, all promote abolition of the death penalty.

Body scanners were provided to Iranian anti-narcotics police through UNODC project IRNI50 – a \$3.3 million USD effort funded by Belgium, France, Ireland, Japan and the United Kingdom.⁵³ Following their installation, seizures at Iranian airports increased twelvefold,⁵⁴ along with a twofold increase in executions in Iran compared with the preceding two years. In 2010 and 2011, more than 1,000 drug offenders were executed in Iran, more than triple the number in the prior two-year period.⁵⁵

According to a Council of the European

Union document that was distributed to members of the Mini Dublin Group on Iran:

UNODC, DCHQ and the Iranian judiciary have worked together on drafting a new Drug Law with a more balanced approach between drug supply and drug demand reduction. The new Anti Drug Law of the Islamic Republic of Iran was approved by the Expediency Council on 31 July 2010 and ratified by the Supreme Leader on 2 October 2010 ... The law prescribes corporal punishment for most drug crimes and death penalty for anyone who 'imports, produces, distributes, exports, deals in, puts on sale, keeps or stores, conceals and carries' more than thirty grams of a number of listed drugs, including psychotropic substances.⁵⁶

UNODC denies working on this law and claims the memo is inaccurate. However, according to project documents, UNODC did try to provide legislative input in advance of the drafting of this law, though it appears such advice was in fact intended to reduce the maximum allowable penalties in Iran.⁵⁷ These efforts were laudable, but the Iranian government's decision to reject this advice and increase penalties – coupled with its rampant scaling up of executions in 2010 and 2011 (with no signs of abating in 2012) – would seem to necessitate a withdrawal from future work on drug enforcement with the government

⁵¹UNODC (27 June 2011) Iran's anti-narcotics dog capacities continuously enhanced by UNODC.

⁵²Iran Drug Control Headquarters (2012) Annual Report, Islamic Republic of Iran: Drug Control in 2011.

⁵³UNODC, 2010 Annual Project Progress Report, IRNI50, copy on file with authors.

⁵⁴FARS News Agency (3 May 2010) Iran reports 12-time increase in drugs' seizure at airports.

⁵⁵See UK Foreign and Commonwealth Office (March 2011) Human Rights and Democracy: the 2010 Foreign & Commonwealth Office Report, p. 204, and Iran Human Rights (2012) Annual Report: Death Penalty in Iran 2011. The proportion of drug offenders is consistent with Harm Reduction International sources that claim the Iranian government has attested that 90 per cent of those executed were drug offenders. For the prior two-year period, see P. Gallahue (2011) The Death Penalty for Drug Offences: Global Overview 2011 – Shared Responsibility and Shared Consequences, London: Harm Reduction International.

⁵⁶Council of the European Union (27 May 2011) Note from the German Regional Chair of the Dublin Group to the Dublin Group, Brussels, 10815/11, p. 5.

⁵⁷UNODC (May 2010) Report of the Independent External Evaluation Project 'Improvement of Iranian Legislative and Judicial Capacity to Tackle Organized Crime and Money Laundering and Promotion of Mutual Legal Assistance', IRN/S12. Although this project was focused on money laundering, according to project documents, it appears that some efforts were made to advise Iranian authorities on proposed drug laws as well.

IN 2005, AUSTRALIAN FEDERAL POLICE WORKED CLOSELY WITH INDONESIAN AUTHORITIES TO CAPTURE A GROUP OF NINE AUSTRALIAN DRUG TRAFFICKERS, SEVERAL OF WHOM WERE LATER SENTENCED TO DEATH – ONE OF WHOM WAS JUST NINETEEN YEARS OLD AT THE TIME OF HIS ARREST. THEY ARE WIDELY KNOWN AS ‘THE BALI NINE’.

or at least a freezing of support. As of this writing, no action has been taken.

It is not just assistance to Iran that raises concerns. Indeed, one possible reason why bad models are replicated is that some of the worst examples are held up as paragons. For instance, under a \$730,000 USD US-funded UNODC project (VIE/G55), a 2006 study tour brought officers from Viet Nam’s police, border army and customs to Singapore to ‘increase operational law enforcement and legal cooperation’ and ‘expose Vietnamese officials to the Singaporean approach in dealing with drug trafficking’.⁵⁸ Singapore’s ‘approach’ to drugs includes caning of those who test positive for drugs, and a mandatory death penalty for trafficking, often enforced against low-level drug mules caught with quantities exceeding just fifteen grams.⁵⁹

Concerns about technical and material assistance continue to arise with each month. In May 2012, British citizen Khadija Shah, a pregnant, twenty-five-year-old mother of two, was arrested at Islamabad airport in Pakistan en route to Birmingham, UK, with 140 pounds of heroin. UNODC Project PAK/J61 was a four-year, \$3 million USD project that started in 2007 and was funded entirely by the government of Canada. This project aimed at strengthening government capacity at international

transit points, including airports, in Pakistan. The project provided the national Anti Narcotics Force and other law enforcement agencies with screening equipment, such as x-ray machines, as well as urine-testing equipment, at national airports including Islamabad where Ms Shah was arrested. The project also included training in the detection of drugs, specifically teaching personnel how to identify drugs in the luggage of air travellers.

The project was complemented by others such as UNODC Project PAK/I47, a \$1 million USD project funded by Canada and Denmark. This project aimed to build the capacity of law enforcement personnel in the seizure of narcotics. A significant element of the project was teaching interdiction techniques for airports. The Canadian government was also a major donor to the five-year (2005–2010), \$1.2 million USD UNODC Project PAK/H07, along with the UK, Australia, Austria and Sweden, which also included training of airport personnel in interdiction and investigation of drug smuggling.

At the time of writing Ms Shah faces the death penalty. While she is unlikely to be executed, the case again raises serious concerns about the absence of human rights safeguards on interdiction projects.

⁵⁸UNODC (2007) Annual Project Progress Report (for period: 01/01/2006 – 31/12/2006), Project: VIEG55, Region: East Asia and the Pacific, copy on file with authors.

⁵⁹Singapore’s Misuse of Drugs Act contains provisions stipulating that anyone caught with more than a specified amount of narcotics is presumed to be trafficking.

c) Bilateral cooperation

In 2008, two Nigerians convicted of drug trafficking were marched to a van from their cells in the remote Pasir Putih maximum security prison at Nusa Kambangan in Indonesia. They were driven to a field, tied to crosses and shot with M16 rifles. They had been given a day's notice of their executions, which marked the UN's International Day Against Drug Abuse and Illicit Drug Trafficking, 26 June. A prison riot followed the announcement of the planned executions.⁶⁰

The prison had been built with money from the EU and US. It was intended for terrorists but in fact housed mostly drug offenders, who had been transported there in rendition-style flights. The UN Special Rapporteur on Torture visited the prison in 2007. According to reports received by the Special Rapporteur, 'During the transfer [to the prison] detainees were handcuffed together, chained to the floor and blindfolded for 14 hours.'⁶¹ The overwhelming majority of those on death row in the prison were there for drug offences.

International cooperation in drug control, however, is not limited to incidents involving foreign nationals, but can place a donor country's own citizens at risk. For example, in 2005, Australian Federal Police worked closely with Indonesian authorities to capture a group of nine Australian drug traffickers, several of whom were later sentenced to death – one was just nineteen years old at the time of his arrest.⁶² They are widely known as 'the Bali Nine'.

Beginning in 1998, the UK supplied funding for Lao authorities to undertake 'airport profiling' training 'in areas of aircraft customs procedures including risk assessment, intelligence gathering and rummage'. This was followed with funds from the UK, the US and Canada for training in interdiction techniques 'to increase the basic knowledge [and] skills of law enforcement staff working at airports' in profiling, airline ticketing analysis, questioning, body indications, baggage risk indicators and cargo risk indicators.⁶³

In 2008, twenty-year-old British citizen Samantha Orobator was arrested in Vientiane's Wattay airport and charged with smuggling 0.68 kilograms of heroin. Ms Orobator faced a mandatory death penalty if convicted, and might have been condemned to die had she not conceived a child while in custody. Lao PDR forbids the imposition of the death penalty on pregnant prisoners. Following interventions by the UK government, Ms Orobator was returned home in August 2009. We do not suggest that airport staff training supported by the UK directly led to Ms Orobator's arrest. However, the potential link should be enough to cause significant concern and highlight the need to consider the human rights impacts of such projects – as the UK began doing in 2011.

Other major donors should take heed.

⁶⁰Reuters (27 June 2008) Two Nigerians executed in Indonesia for drugs; Jakarta Post (25 June 2008) Inmates riot at Nusa Kambangan maximum security prison.

⁶¹Report of the UN Special Rapporteur on Torture, Manfred Nowak: Mission to Indonesia, UN Doc. A/HRC/7/3/Add.7 (10 March 2008) paras. 96–114.

⁶²Rush v Commission of Police (2006) FCA 12 (23 January 2006); The Australian (27 August 2010) How the AFP trapped the Bali Nine. Some of these defendants have since been taken off death row

⁶³Law enforcement and technical assistance database, Lao PDR, copy on file with authors.

TABLE 1:**Examples of technical, legal or material assistance for drug control programmes in death penalty states**

Project:	Integrated border control in the Islamic Republic of Iran (IRN/I50, 2007-2011)
Implementer:	UNODC
Beneficiary:	Iran
Donors:	Belgium, France, Ireland, Japan, UK
Budget:	\$3.4 million USD
Results:	Established border liaison offices; supplied body scanners to be used at major international airports, resulting in twelve-fold increase in arrests; provided material resources such as sniffer dogs, vehicles, testing kits
Concern:	More than 1,000 executed for drugs from 2010 through 2011 (more than three times previous two-year period)

Project:	Promotion and strengthening of intelligence-led investigations capacities (IRN/I52, 2010–2011)
Implementer:	UNODC
Beneficiary:	Iran
Donors:	France, UK
Budget:	\$720,000+ USD
Results:	Strengthened the investigation capacities of Iran's Anti-Narcotics Police (ANP), customs and other law enforcement agencies through trainings, provision of equipment and support for joint border operations between Iran, Pakistan and Afghanistan
Concern:	More than 1,000 executed for drugs from 2010 through 2011 (more than three times previous two-year period)

Project: Strengthening Afghan-Iran drug border control and cross border cooperation (AFG/H16, 2004–2009)

Implementer: UNODC

Beneficiary: Afghanistan

Donors: Austria, Canada, EU, Germany

Budget: \$4 million USD

Results: Developed agreement to build twenty-five border posts between Iran and Afghanistan; train staff; provide equipment such as drug and precursor test kits, basic search equipment and transportation equipment; and establish electronic communications networks between posts

Concern: As many as 3,000 Afghan citizens on death row for drugs in Iran ⁶⁴

Project: Interdiction and seizure capacity building with special emphasis on ATS and precursors in Vietnam (VIE/G55, 2004–2007)

Implementer: UNODC

Beneficiary: Viet Nam

Donor: US

Budget: \$736,800 USD

Results: The ‘immediate objective’ was ‘to strengthen the law enforcement efforts related to trafficking in drugs’. Among the key indicators adopted to measure the project’s success or failure was ‘a progressive increase in the number of individuals arrested by the Interdiction Task Force Units for trafficking in illicit drugs’. In addition, six drug interdiction task force units were established⁶⁵

Concern: At least 24 people were sentenced to death for drug offences in 2010⁶⁶ and at least 27 drug offenders were sentenced to death in 2011⁶⁷

⁶⁴Amnesty International (15 December 2011) Addicted to death: executions for drugs offences in Iran, p. 16.

⁶⁵Project ref: AD/VIE/03/G55, available online at: www.unodc.org/vietnam/en/atsandprecursors.html (date of last access: 2 October 2007).

⁶⁶Amnesty International (17 January 2011) communication with author.

⁶⁷Agence France Press (30 December 2011) Viet Nam: five sentenced to death for trading heroin.

Project:	Development of cross border law enforcement co-operation in East Asia (RAS/D91, 1999–2007)
Implementer:	UNODC
Beneficiaries:	Lao PDR, Cambodia, China, Myanmar, Thailand, Viet Nam
Donor:	Japan
Budget:	\$2.8 million USD
Results:	The primary objective was ‘to improve effectiveness of law enforcement officers in targeted border areas ... and to strengthen cross-border cooperation’. ⁶⁸ The project created 24 – later expanded to 44 – border liaison offices, ⁶⁹ which served as mechanisms for cross border intelligence-sharing along and across the borders of the beneficiary states ⁷⁰
Concern:	Hundreds of extraditions to countries that retain the death penalty for drugs, resulting in known executions

⁶⁸UNODC Report of National Workshop for Cross Border Cooperation (AD/RAS/99/D91)* 2, available online at: www.unodc.un.or.th/material/document/2001_1.pdf (date of last access: 2 October 2007).

⁶⁹UNODC (2005) Terminal evaluation report: RAS/99/D91, Development of cross-border law enforcement cooperation in East Asia, Report of the evaluator: F. Richard Dickens, p. 2, available online at: www.unodc.un.or.th/law/D91/ad-ras-99-d91.htm (date of last access: 2 October 2007), copy on file with authors.

⁷⁰UNODC (2002) Border liaison offices in operation, UNDCP Regional Office for East Asia and the Pacific, internal doc. no. 17/2002, p. 2.

2. DEMAND REDUCTION: Drug Detention

In March 2012, UNODC joined eleven other UN agencies to condemn compulsory drug detention and to call for the immediate closure of drug detention centres, emphasising health and human rights risks to detainees. According to the joint statement:

The deprivation of liberty without due process is an unacceptable violation of internationally recognised human rights standards. Furthermore, detention in these centres has been reported to involve physical and sexual violence, forced labour, sub-standard conditions, denial of health care, and other measures that violate human rights.⁷¹

Though the statement from the twelve UN agencies calling for the closure of drug detention centres and offering technical assistance on alternatives is a welcome development, it remains to be seen how these agencies will put their words into country-level action.

Indeed, in March 2012 (the same month

the UN statement was released), UNODC co-sponsored a fashion show to raise funds for a drug detention centre in Lao PDR that Human Rights Watch had reported as a site of arbitrary detention, inmate suicides, beatings and other forms of ill treatment in October 2011 (see Figure 3).⁷² This incident demonstrates that even as the rhetoric from UNODC improves, the agency's observance of standards espoused at headquarters has yet to reach its day-to-day field operations.

Numerous reports⁷³ have documented the human rights violations associated with government drug detention centres (sometimes euphemistically called drug treatment centres, drug rehabilitation centres or re-education through labour centres), where more than 400,000 people in China and Southeast Asia alone⁷⁴ are interned for months or years without due process rights such as proper medical evaluation, appearance before a judge or right of appeal – in breach of the basic right to freedom from arbitrary detention.

⁷¹ILO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO, UNAIDS (2012) Joint statement. Compulsory drug detention and rehabilitation centres: United Nations entities call on states to close compulsory drug detention and rehabilitation centres and implement voluntary, evidence-informed and rights-based health and social services in the community; available online at: www.unaids.org/en/media/unaids/contentassets/documents/document/2012/JC2310_Joint%20Statement%20March12FINAL_en.pdf (date of last access: 13 July 2012).

⁷²Human Rights Watch (2011) Somsanga's Secrets: Arbitrary Detention, Physical Abuse, and Suicide Inside a Lao Drug Detention Center, New York: Human Rights Watch.

⁷³See, for example, R. Elliott, A. Symington, R. Lines and R. Schleifer (2011) Treatment or Torture? Applying International Human Rights Standards to Drug Detention Centers, New York: Campaign to Stop Torture in Health Care; R. Saucier (ed.) (2011) Treated with Cruelty: Abuses in the Name of Drug Rehabilitation, New York: Campaign to Stop Torture in Health Care; Human Rights Watch (2011) The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam, New York: Human Rights Watch; Human Rights Watch (2011) Somsanga's Secrets, op cit.; N. Thomson (2010) Detention as Treatment: Detention of Methamphetamine Users in Cambodia, Laos, and Thailand, New York: Open Society Institute; Human Rights Watch (2010) Skin on the Cable: The Illegal Arrest, Arbitrary Detention, and Torture of People Who Use Drugs in Cambodia, New York: Human Rights Watch; Human Rights Watch (2010) Where Darkness Knows No Limits: Incarceration, Ill-Treatment, and Forced Labor as Drug Rehabilitation in China, New York: Human Rights Watch; D. Wolfe and R. Saucier (eds.) (2009) At What Cost? HIV and Human Rights Consequences of the Global "War on Drugs", New York: Open Society Institute; Canadian HIV/AIDS Legal Network (2009) Compulsory Drug Treatment in Thailand: Observations on the Narcotic Addict Rehabilitation Act B.E. 2545 (2002), Toronto: Canadian HIV/AIDS Legal Network.

DETENTION CENTRES IN CHINA AND VIET NAM ARE IN ESSENCE SLAVE LABOUR CAMPS, WITH DETAINEES FORCED TO MEET DAILY WORK QUOTAS FOR PRIVATE COMPANIES THAT CONTRACT WITH CENTRE MANAGEMENT.



Figure 3: Invitation to a fundraiser for the Somsanga drug detention centre, co-sponsored by UNODC, March 2012

The centres are typically run by public security or military officials rather than public health practitioners, and usually lack qualified medical personnel or evidence-based treatment for HIV or other common illnesses.

Detention centres in China and Viet Nam are in essence slave labour camps, with detainees forced to work for years to meet daily labour quotas for private companies that contract with centre management. This practice is referred to as ‘therapeutic labour’ in Viet Nam and its performance in drug detention centres is required by Vietnamese law. Even juveniles must participate in ‘therapeutic labour,’ as the Vietnamese government acknowledged in their recent response to the UN Committee on the Rights of

the Child when asked directly about drug detention centres.⁷⁵

Human Rights Watch has documented that staff inside Viet Nam’s centres beat and kick detainees in order to force them to work or as punishment for breaking centre rules. A former detainee in Viet Nam told Human Rights Watch, ‘If we opposed the staff they beat us with a one-meter, six-sided wooden truncheon. Detainees had the bones in their arms and legs broken. This was normal life inside.’⁷⁶ Other detainees in Viet Nam’s centres

‘If we opposed the staff they beat us with a one-meter, six-sided wooden truncheon. Detainees had the bones in their arms and legs broken. This was normal life inside.’

⁷⁵B.M. Mathers, L. Degenhardt, H. Ali, L. Wiessing, M. Hickman, R.P. Mattick, et al. (2010) HIV prevention, treatment, and care services for people who inject drugs: a systemic review of global, regional, and national coverage, *The Lancet*, 375(9719), pp. 1014–28. See figures at pp.72–4 in web appendix to article.

⁷⁶Written reply of Viet Nam to the Committee on the Rights of the Child. (2012) UN Doc. CRC/C/VNM/Q/3-4/Add.1, para 115.

⁷⁷Human Rights Watch, *The Rehab Archipelago*, op. cit.

have reported that staff shocked them with an electric baton and placed them in solitary confinement for months at a time.⁷⁷ The Asian Harm Reduction Network collected accounts of staff putting detainees in punishment rooms, including forcing them into stress positions.⁷⁸ Detainees who attempt to leave, whether to seek medical treatment or to escape the harsh punishments, are severely beaten.⁷⁹

Human Rights Watch also documented abuses in China's drug detention centres in two separate reports.⁸⁰ One former detainee described to Human Rights Watch how he was forced to work even as he suffered through drug withdrawal. When he complained to the foreman, he was kicked in the stomach, whipped with a belt and told, 'You don't recover and then do hard labour, but rather do hard labour in order to recover.' The detainee said, 'After the beating, I had to go back to the ditch and do hard labour. Carrying just one basket of dirt was so hard. As I was carrying a basket, I heard

someone say "Are you going on a walk? You think you are walking the road of youthfulness?" Just as I was about to turn my head, a wooden stick swung from behind like I was being spanked. I thought, "Why can't I just die?"⁸¹

Drug detention in other Asian countries is similarly dehumanising. Detainees have reported being beaten with bricks or whipped, undergoing painful withdrawal from drugs without medical assistance, administration of unknown medications, beatings, participation in experimental trials with no informed consent and degrading treatment such as being forced to crawl through animal excrement or made to swallow dirty water.⁸²

HIV testing is often coerced or compulsory in the centres, but counselling and antiretroviral treatment for those who test positive has been unavailable. One staff member told Human Rights Watch that the tests helped guards in a Chinese centre determine which female detainees they could safely force to have sex without a condom.⁸³

'COMPULSORY DRUG DETENTION AND REHABILITATION CENTRES RAISE HUMAN RIGHTS ISSUES AND THREATEN THE HEALTH OF DETAINEES, INCLUDING THROUGH INCREASED VULNERABILITY TO HIV AND TUBERCULOSIS (TB) INFECTION THE UN ENTITIES WHICH HAVE SIGNED ON TO THIS STATEMENT CALL ON STATES THAT OPERATE COMPULSORY DRUG DETENTION AND REHABILITATION CENTRES TO CLOSE THEM WITHOUT DELAY AND TO RELEASE THE INDIVIDUALS DETAINED.'

⁷⁷Human Rights Watch, *The Rehab Archipelago*, op. cit.

⁷⁸Wolfe and Saucier, *At What Cost?*, op. cit.

⁷⁹Human Rights Watch, *The Rehab Archipelago*, op. cit.

⁸⁰Human Rights Watch, *Where Darkness Knows No Limits*, op. cit.; Human Rights Watch (2008) *An Unbreakable Cycle: Drug Dependency, Treatment, Mandatory Confinement, and HIV/AIDS in China's Guangxi Province*, New York: Human Rights Watch.

⁸¹Human Rights Watch, *Where Darkness Knows No Limits*, op. cit.

⁸²D. Wolfe and R. Saucier (2010) *In rehabilitation's name? Ending institutionalized cruelty and degrading treatment of people who use drugs*, *International Journal of Drug Policy* 21, pp. 145–8.

⁸³Human Rights Watch, *An Unbreakable Cycle*, op. cit., p. 37.

To date, donor assistance for drug detention has included actual material support for the construction of new centres, advice on legislation that entrenches these abusive systems, training and ‘capacity building’ of centre staff and the provision of health care and social services inside such centres.

a) Technical assistance and capacity building

It is clear that drug detention centres function to punish and clear the streets of people governments views as undesirable, rather than to provide effective treatment for drug dependency. Torture, ill treatment, forced labour and lack of due process prior to detention would clearly be unacceptable in the US, Australia or the EU. Abroad, however, some donor nations and their implementing partners have sought to build centre capacity or work inside them as though they were blind to the context and effects of their projects.

Australia, Luxembourg and Sweden, for example, awarded UNODC more than \$1 million USD for project VIE/H68, which began in 2004 to address, among other goals, ‘the need for capacity building in government-run institutionalized treatment centres’⁸⁴ in Viet Nam. UNODC stated that it hoped to ensure ‘increased capacity of Government-run treatment centre staff to deliver “state of the art” treatment and rehabilitation services through the development of a training programme to improve institutional treatment’⁸⁵. Donors funded the project

Torture, ill treatment, forced labour and lack of due process prior to detention would clearly be unacceptable in the US, Australia or the EU. Abroad, however, some donor nations and their implementing partners have sought to build centre capacity or work inside them as though they were blind to the context and effects of their projects.

despite the fact that detainees in the centres were not evaluated to see if they required any drug treatment at all, the requirement in Vietnamese law for all detainees to perform forced labour and reports of torture, beatings, food deprivation and other abuses.

To accomplish the project goals, UNODC directly transferred funds to ten Vietnamese provinces to pay for internal training and ‘national experts’. These included Vietnamese government officials from the Department of Social Evils Prevention – the entity that runs the centres. The project also trained hundreds of detention centre staff on drug counselling and client management,⁸⁶ using curricula prepared by Turning Point Australia (a drug treatment clinic in Victoria, Australia).⁸⁷

As reported by Human Rights Watch, the H68 training manual is made up of five handbooks. The first handbook in the series includes a summary of ‘evidence-based drug treatment approaches’. As part of that section, the handbook notes, ‘Treatment does not need to be voluntary

⁸⁴UNODC (2003) Project Idea AD/VIE/04/H68, p. 1, copy on file with authors.

⁸⁵Ibid., p. 2.

⁸⁶Australian Regional Chair for South East Asia and China (June 2011) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union. UNODC, VIEH68 – Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level: 2011 Annual Project Progress Report, copy on file with authors.

⁸⁷UNODC, VIEH68 – Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level: 2010 Semi-annual Project Progress Report, copy on file with authors. Curricula are available online at: www.unodc.org/eastasiaandpacific/en/Projects/2006_01/rehabilitation.html (date of last access: 13 June 2012).

OUTCOMES SUCH AS OF ‘STATE OF THE ART’ TREATMENT OR AN ‘INCREASED NUMBER OF CLIENTS IN EFFECTIVE TREATMENT FACILITIES’ ARE IMPOSSIBLE IN AN ENVIRONMENT OF ARBITRARY DETENTION AND VIOLENCE.

to be effective. Sanctions or enticements in the family, employment setting or criminal justice system can significantly increase treatment entry, retention and success.’⁸⁸ The training manual does not mention ‘labour therapy’ or forced labour.

While Viet Nam’s drug detention centres appear to have become more effective at detaining people (in fact the capacity to detain grew substantially over the life of the grant, increasing the number of centres from 73 at the outset to 123 during the grant period), there is no evidence of any increase in treatment effectiveness. Rates of return to drug use for those released are estimated at 95% according to a recent US government report,⁸⁹ and as high as 90% by some Vietnamese government estimates.⁹⁰ Surprisingly, the UN and the governments of Australia, Luxembourg and Sweden did not seem to question how those who participated in a system where detainees are beaten and tortured could be effective, trusted counsellors.

Outcomes such as ‘state of the art’ treatment or an ‘increased number of clients in effective treatment facilities’⁹¹ are impossible in an environment of

arbitrary detention and violence, and where forced labour is a mandated part of treatment.

A major concern here is that even if treatment within centres improves (and there is a genuine humanitarian concern in ensuring that people inside such facilities receive basic health care), this does not address the illegality of detention without due process. Capacity-building projects in detention centres, even if motivated by well-intentioned efforts to improve treatment standards, legitimise an illegal system.

Viet Nam is not the only country receiving funds related to detention centres. Australia, Canada, Luxembourg, Netherlands, Sweden, UNAIDS and the UK (through UNODC Project RAS/G22) supported a pilot inside the Guiyang City Compulsory Drug Rehabilitation Centre in China, to bolster detainee capacity for ‘self help’ and relapse prevention.⁹² Violence and abuse in such centres are rife and well documented, including in two reports by Human Rights Watch. Still, UNODC recommended further engagement and staff capacity building to improve China’s centres.⁹³

⁸⁸UNODC (2008) Advanced Level Training Curriculum for Drug Counselor, Handbook 1, p. 31.

⁸⁹Bureau of International Narcotics and Law Enforcement Affairs (2011) 2011 International Narcotics Control Strategy Report, Washington, DC: US Department of State.

⁹⁰Department for Social Evils Prevention, Standing Office for Drug Abuse Prevention, Centre for Counseling on Policies and Laws in Health Care (2009) Assessment of Effectiveness of Treatment for Drug Addiction and Preventive Measures, Care and Treatment for HIV/AIDS at Centers for Treatment – Education – Social Labor in Vietnam, Hanoi: Socialist Republic of Viet Nam.

⁹¹UNODC (2006) Project Document: AD/VI/E/H68 – Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level, p. 20, copy on file with authors.

⁹²UNODC (2006) RASG22 – Reducing HIV Vulnerability from Drug Abuse in East Asia. Annual Project Progress Report, p. 5, copy on file with authors.

⁹³UNODC, Regional Centre for East Asia and the Pacific (2006) HIV/AIDS and Custodial Settings in Southeast Asia, Thailand: UNODC, p. 27.

Other funding for technical assistance in drug detention centres has come directly from bilateral sources. In 2005 and 2006, the US Bureau of International Narcotics and Law Enforcement Affairs (INL) provided funding for Daytop International (a US-based drug treatment organisation) to train government officials and staff at twenty Vietnamese drug detention centres on counselling methods and the therapeutic community model.⁹⁴ While the World Federation of Therapeutic Communities requires members to ‘recognize the human and civil rights of all persons associated with their therapeutic community and clearly state the rights, privileges and responsibilities to clients and staff’,⁹⁵ an evaluation of the INL/Daytop effort did not acknowledge the arbitrary nature of detention in Viet Nam, the lack of protection from physical or emotional abuse or the rights violations represented by forced labour. Instead, noting the long periods of compulsory treatment and ‘work activities’ inside the centres, the report recommended that the model be expanded to all drug detention centres in Viet Nam.⁹⁶

The Vietnamese government later responded to Human Rights Watch’s report of abusive practices in the centres by saying that the centres are in line with US government treatment standards (see section c below on ‘Donor support as justification for the detention centre model’).

In Cambodia, too, where detainees of

‘[T]heir inclusion at the center seems to be driven more by an interest in cleaning up Phnom Penh’s streets than in improving the lives of individual drug users: the center’s director repeatedly compared residents to animals and described how their unkempt appearance and body odor could frighten tourists and the general public.’

drug detention centres have reported starvation, beating, shocking with electrical currents and lack of adequate medical attention,⁹⁷ the US government has supported training for centre staff. In 2007, INL gave \$150,000 USD for a Daytop initiative similar to the one in Viet Nam. The session provided training in residential drug treatment techniques to government officials, NGO workers, monks, military and police officials.⁹⁸ An INL representative described a follow-up visit to the ‘My Chance’ detention centre in Phnom Penh:

Staff at the My Chance Center had no prior experience in drug treatment or related fields. Three staff members had attended weeks 3 and 4 of Daytop’s six week drug treatment training program and were enthusiastic about incorporating some of those techniques into their daily routine. Nonetheless, other than Daytop’s ‘morning meeting’ – which they use as a time to address community concerns and give morality instruction – there is no group or individual therapy and most

⁹⁴R. Offner and D. Dekker (2009) Effectiveness of INL Drug Treatment Training in Vietnam: A 2008 Follow-Up Study, Silver Spring: Danya International. Australian Regional Chair for South East Asia and China (July 2007) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union.

⁹⁵World Federation of Therapeutic Communities (n.d.) Standards and goals for therapeutic communities, available online at: www.wftc.org/standards.html (date of last access: 13 July 2012).

⁹⁶Offner and Dekker, op. cit.

⁹⁷Human Rights Watch (2010) *Skin on the Cable: The Illegal Arrest, Arbitrary Detention, and Torture of People Who Use Drugs in Cambodia*, New York: Human Rights Watch.

⁹⁸Bureau for International Narcotics and Law Enforcement Affairs (2008) *International Narcotics Control Strategy Report*, Washington, DC: US Department of State, p. 290. Australian/Japanese Regional Chair for South East Asia and China (June 2008) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union.



Figure 4: Photo reported as showing children being transported to an abusive ‘rehabilitation’ centre in a UNICEF/EU vehicle, a claim denied by Unicef¹⁰³

*of the day is filled with agricultural labor, physical exercise, watching television, and free time.*⁹⁹

He also acknowledged the fact that the detention centre was little more than a holding pen for people the government wanted off the streets:

*Most of the 140 residents are homeless individuals who are brought to the center by the police, and their inclusion at the center seems to be driven more by an interest in cleaning up Phnom Penh’s streets than in improving the lives of individual drug users: the center’s director repeatedly compared residents to animals and described how their unkempt appearance and body odor could frighten tourists and the general public.*¹⁰⁰

UNICEF has faced perhaps the most public criticism for its support of a drug detention centre for children. The agency was condemned in the wake

of a 2010 Human Rights Watch report for providing funding to the Cambodian Ministry of Social Affairs, Veterans and Youth Rehabilitation, which runs detention centres where children have been subject to arbitrary detention, torture, violent beatings and other inhuman and degrading punishments.¹⁰¹

Even after this alarming report was released, UNICEF continued to support the Ministry of Social Affairs. Ministry officials claimed that UNICEF support was proof that there were no abuses in that centre.¹⁰²

Figure 4 is a photo from the Phnom Penh Post which shows that children are being transported to an abusive ‘rehabilitation’ centre in a UNICEF/EU vehicle.¹⁰⁴

UNICEF was initially dismissive of reports of flagrant rights violations¹⁰⁵ (even as local newspapers were publishing stories corroborating the findings of abuse¹⁰⁶). The agency later released a statement

⁹⁹US Embassy Phnom Penh (June 2007) Cable. Cambodia: effective narcotics control and treatment face substantial hurdles, available online at: <http://wikileaks.org/cable/2007/06/07PHNOMPENH782.html> (date of last access: 13 June 2012).

¹⁰⁰Ibid.

¹⁰¹Human Rights Watch, *Skin on the Cable*, op. cit.

¹⁰²Human Rights Watch, *Skin on the Cable*, op. cit.

¹⁰³I. Loy (22 March 2010) UN denies abuse of drug users, Phnom Penh Post.

¹⁰⁴Ibid.

¹⁰⁵J. Amon, *How Not to Protect Children*, Op cit.

¹⁰⁶See, for example, I. Loy (27 January 2010) UN linked to suspect rehab site, Phnom Penh Post; Ferrie, J. (7 June 2010). *Recovering Drug Addicts Claim Abuse in Cambodia* The National.

‘AFTER EATING, WE RUN AS FAST AS WE CAN INTO THE WORKSHOP TO BEGIN A DAY OF FRENZIED LABOR. WE SPRINT THERE BECAUSE WE NEED EVERY SECOND TO MEET OUR PRODUCTION QUOTA FOR THE DAY; IF WE DON’T, OUR BUTTOCKS WILL BEAR THE BRUNT OF PUNISHMENT AT DAY’S END.’¹¹⁴

admitting that they had found evidence of ongoing abuse in the centre they supported.¹⁰⁷ The statement said that UNICEF had brought its concerns to the attention of the Cambodian government, which had been taking steps to address them. UNICEF, which was among the twelve UN agencies recently calling for immediate closure of all drug detention centres, stated its intention to continue to support the Ministry of Social Affairs, Veterans and Youth Rehabilitation.¹⁰⁸

A particular subset of technical assistance is the provision of legal advice on drug laws and policies. For example, Australia,¹⁰⁹ Canada, Italy, Sweden and the US gave more than \$1 million USD to UNODC for Project KHM/J11, which commenced in 2007.¹¹⁰ In 2008, the project was revised to include, as

a major component, the provision of legal assistance to Cambodia in drafting a new drug law.¹¹¹ Indeed, UNODC had encouraged Cambodia to modify its drug law, including ‘strengthening penalties for drug offences and other drug-related crimes’.¹¹² The agency provided assistance throughout the redrafting process, including the participation of its ‘Senior Legal Advisor, who during the drafting process ... also provided extensive support from UNODC headquarters in Vienna’.¹¹³

The resulting new law¹¹⁵ undermines human rights and entrenches the drug detention centre system.¹¹⁶ Despite many alarming provisions, some contravening international human rights law, UNODC publicly stands by the new draft of the law. Though an evaluation

¹⁰⁷UNICEF (2010) Statement on the care and protection of children in institutions in Cambodia, Bangkok: UNICEF.

¹⁰⁸LO, OHCHR, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, UNODC, UN Women, WFP, WHO, UNAIDS (2012) Joint statement. Compulsory drug detention and rehabilitation centres, op. cit.

¹⁰⁹In correspondence with Harm Reduction International AusAID denied that Australia had provided funds for this project. Project and funding reports, however, indicate otherwise.

¹¹⁰UNODC (2007) KHM-J11 – Institutional Reform and Capacity Building for Drug Control and Integrated Drug Abuse Prevention in Cambodia. 2007 Annual Project Progress Report, copy on file with authors.

¹¹¹UNODC (2008) KHM-J11 – Institutional Reform and Capacity Building for Drug Control and Integrated Drug Abuse Prevention in Cambodia. 2008 Semi-Annual Project Progress Report, copy on file with authors.

¹¹²A. Klein (n.d.) Final Evaluation KHMJ11, p. 15, document on file with authors.

¹¹³UNODC Project Office Cambodia (2009) Project Revision 3: KHMJ11 – Institutional Reform and Capacity Building for Drug Control and Integrated Drug Abuse Prevention in Cambodia, p. 5, copy on file with authors.

¹¹⁴From: R. Saucier (ed.) (2011) Treated with Cruelty: Abuses in the Name of Drug Rehabilitation, New York: Campaign to Stop Torture in Health Care.

¹¹⁵Law on Drug Control, Royal Kram, NS/RKM/0112/001, passed by the National Assembly on 25 November 2011 during its seventh session of the fourth legislature and approved in its entirety by the Senate on 16 December 2011 during its tenth plenary session of the second legislature.

¹¹⁶While three months had previously been a typical period of drug detention, the new law mandates a timeframe of six months to two years. Just about anyone who is suspected of using drugs could end up in drug detention for this length of time: a ‘drug addict’ is defined as ‘a person who consumes drugs and is in the state of drug addiction’ and people, including minors, can easily be forced into the centres. Besides arbitrary detention, the law also lays the ground for forced labour: a clause allowing for contributions from ‘various sources to support its operations’ could open the door for a model like that in Viet Nam and China, where forced labour is at the service of private companies. The law provides immunity for centre staff who commit abuses against those detained. In addition, it allows for the extradition of non-citizens who commit drug-related crimes (potentially to countries with the death penalty for drug offences).

does cite UNODC concerns about the new draft's tough stance, including stiff penalties for possession and small-time dealing, opportunity for corruption, and complexity,¹¹⁷ project documents say that UNODC should 'prepare the Royal Government of Cambodia to defend the draft in Parliament'.¹¹⁸

A 2009 UNODC report explains, 'Although the project provided a substantial amount of technical and financial support for drafting the new Law on Drug Control, it could not ensure that the penalty threshold for drug offences was lowered, that human rights were protected and that the law was consistent with harm reduction principles and voluntary treatment.'¹¹⁹ As a measure to respond to the risk, UNODC suggests merely a review of the impact of the drug law in three years' time.¹²⁰

As these examples show, good intentions are not enough. UN and donor representatives appear to have been aware of problematic conditions in Asian drug detention centres for years,¹²¹ but nevertheless continue

with various projects in these contexts without any human rights risk analysis, nor mechanisms to report human rights abuses witnessed in the course of project implementation. Efforts at technical assistance to improve conditions in illegal institutions point to the urgent need for a human rights framework against which UNODC and bilateral donors can evaluate project plans, and by which they can continually assess and, when necessary, halt projects already under way.

b) Material support

In some countries, donors have provided money for the construction of drug detention centres (the very centres in which abuses have subsequently been documented). Lao PDR has eight drug detention centres, all built with bilateral donations.¹²²

The US government has provided multiple grants for the construction and renovation of Lao drug detention centres. According to a recent INL report, the US continues to provide assistance 'to the two principal treatment facilities in Lao PDR to enhance their capabilities to offer some worthwhile

¹¹⁷Klein, Final Evaluation KHMJ11, op. cit.

¹¹⁸UNODC (2009) KHMJ11 – Institutional Reform and Capacity Building for Drug Control and Integrated Drug Abuse Prevention in Cambodia. Semi-Annual Project Progress Report, p. 4, copy on file with authors.

¹¹⁹Ibid., p. 7.

¹²⁰Ibid.

¹²¹See, for example, UNODC, Regional Centre for East Asia and the Pacific, HIV/AIDS and Custodial Settings in Southeast Asia, Thailand: UNODC; US Embassy Hanoi (2003) Cable. Punishing minor crimes "administratively"; available online at: <http://wikileaks.org/cable/2003/01/03HANOI247.html> (date of last access: 9 April 2012); US Embassy Phnom Penh (2007) Cable. Cambodia: Effective narcotics control and treatment face substantial hurdles, op. cit.

¹²²N. Thomson (2010) Detention as Treatment: Detention of Methamphetamine Users in Cambodia, Laos, and Thailand, New York: Open Society Institute. See also Presentation by participant of LCDC at the UNODC Global SMART Programme Regional Workshop, Lao Commission on Drug Control, Bangkok, Thailand, 5–6 August 2010, copy on file with authors; UNODC (2009) Sustaining Opium Reduction in Southeast Asia: Sharing Experiences on Alternative Development and Beyond, p. 46.

THE US, JAPAN, THAILAND, CHINA, BRUNEI, SINGAPORE, SWEDEN AND UNODC (WITH FUNDS FROM THE US GOVERNMENT) HAVE CONTRIBUTED MONEY FOR THE CONSTRUCTION OR RENOVATION OF DRUG DETENTION CENTRES IN LAO PDR.

occupational therapy and skills training prior to release'.¹²³ Indeed, in June 2012, the US government announced a new donation of \$400,000 to Lao PDR, saying the US 'this year continues its support for the detoxification process and the rehabilitation of drug addicts'.¹²⁴

The US paid for the construction and renovation of detention blocks in Somsanga, a centre in the capital city of Vientiane.¹²⁵ According to Human Rights Watch, this centre is one that holds not only drug users, but also other 'undesirables', including people with intellectual disabilities, petty thieves, street children, homeless people, beggars and ethnic minorities.¹²⁶ While the Lao authorities have claimed the centre is a 'voluntary centre', it is in fact a closed facility guarded by police. US assistance for construction has explicitly included funding the construction of fences.

The US is not alone in its support: Japan, Thailand, China, Brunei, Singapore, Sweden and UNODC (with funds from the US government) have also contributed money for the construction or renovation

of drug detention centres in Lao PDR.¹²⁷ The German Embassy gave funds for gymnasium equipment for Somsanga.¹²⁸

While various donor-funded efforts have sought to improve conditions in Somsanga, none seem to have addressed the underlying problem of the arbitrary nature of detention or the lack of any medical or scientific rationale for such prolonged detention. Meanwhile, donor investment in truly voluntary, community-based drug treatment options in Lao PDR is minimal.

The US, Australia, Japan, EU member states and other countries coordinate some of their drug-related assistance projects in Southeast Asia through a mechanism called the Dublin Group. 'Mini Dublin Groups' coordinate on the country level, with representation of ambassadors of donor countries. The periodic reports of the Mini Dublin Group in Lao PDR are uncritical of the so-called treatment regime, noting in 2007 that 'Treatment and rehabilitation continues to be provided with support from UNODC to thousands of opium addicts giving them new hope

¹²³Bureau for International Narcotics and Law Enforcement Affairs (2011) International Narcotics Control Strategy Report, Washington, DC: US Department of State, p. 361.

¹²⁴Vientiane Times (2012) US Support Lao Drug Control Efforts. Available online at: http://www.vientianetimes.org/la/Video_FileVDO/June12_US_supports.htm.

¹²⁵See, for example, US Embassy in Vientiane (n.d.) US policy initiatives and programs, available online at: <http://laos.usembassy.gov/nas.html> (date of last access: 13 June 2012); US Embassy in Vientiane (October 2007) Cable. Request INL approval for contract to construct ATS drug treatment clinic in Vientiane province, available online at <http://wikileaks.org/cable/2007/10/07VIENTIANE806.html> (date of last access: 13 June 2012).

¹²⁶Human Rights Watch (2011) Somsanga's Secrets: Arbitrary Detention, Physical Abuse, and Suicide Inside a Lao Drug Detention Center, New York: Human Rights Watch.

¹²⁷Thomson, Detention as Treatment, op. cit.; Australian Regional Chair for South East Asia and China (July 2007) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union.

¹²⁸Human Rights Watch, Somsanga's Secrets, op. cit.

and new opportunities to be productive and to benefit their families, communities, and the nation.¹²⁹

In February 2008, the Mini Dublin Group participated in a visit to an 'ATS [amphetamine type stimulant] rehabilitation center' in northern Lao PDR.¹³⁰ The visit did not shake donors' resolve to continue to contribute to the construction and operation of drug detention centres. By 2010, reports noted 'UNODC, with support from the U.S. Government, has treated and rehabilitated over 28,000 opium addicts in the last 7 years.'¹³¹

Human Rights Watch wrote to INL and the US Embassy in Vientiane to provide an overview of their research findings and gain more information about US funding of the Somsanga centre. They received no response.¹³² Though UNODC has worked closely with Lao drug detention centres, particularly Somsanga, it told Human Rights Watch that it was not aware of any reports of abuse within the centre.¹³³

The US State Department, in its 2011 human rights report, stated that 'foreign diplomats and international organization representatives based in Vientiane regularly visited the center throughout the year and found no evidence to support the [HRW] report'.¹³⁴ The basis for this assessment has not been shared publicly, raising concerns that the process of investigation has not been independent, transparent or thorough. As one former detainee – a child when detained in Somsanga – told Human

Rights Watch, 'The foreigners [that visit Somsanga] don't know about the beatings or the suicides.'¹³⁵

Human Rights Watch is not the only organisation to allege abuses in Somsanga. As early as 2003, UNICEF criticised Somsanga (among other Lao centres) for detaining children in conditions that contravened the Convention on the Rights of the Child.¹³⁶ In 2010, an assessment by the Nossal Institute for Global Health also reported human rights abuses in the same centre.¹³⁷

Official Lao state media has reported regularly over many years that beggars and other homeless people are rounded up and held in Somsanga prior to national holidays or international events. For example, in the lead-up to the 25th Southeast Asia Games, held in Vientiane in December 2009, authorities established call-in numbers for people to report beggars, to ensure 'orderliness' during the games. As the official state news agency reported:

Vientiane Labour and Social Welfare Service has assigned direct call numbers for tracing beggars to ensure keeping orderliness within Vientiane capital during the 25th SEA Games which will fall on 9–18 December this year [2009]. Individuals can inform village authorities, security officers stationed in nearby village clusters or dial 021 21 26 09 or 020 57 22 073 and 56 17 044 if they see beggars within the capital, said on Tuesday Mr. Khonesavanh Phommadouang, Head

¹²⁹Australian Regional Chair for South East Asia and China, Regional Report on South East Asia and China, op. cit., p. 30

¹³⁰Australian/Japanese Regional Chair for South East Asia and China (June 2008) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union, p. 46.

¹³¹Japanese Regional Chair for South East Asia and China (September 2010) Regional Report on South East Asia and China. Brussels: Council of the European Union, p. 37.

¹³²Human Rights Watch, Somsanga's Secrets, op. cit.

¹³³Human Rights Watch, Somsanga's Secrets, op. cit.

¹³⁴Bureau of Democracy, Human Rights, and Labor (n.d.) Country Reports on Human Rights Practices for 2011, Washington, DC: US Department of State, available online at: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper (date of last access: 13 June 2012).

¹³⁵Human Rights Watch (2010) Interview with Paet, Vientiane, notes on file with authors.

¹³⁶Thomson, Detention as Treatment, op. cit.

¹³⁷Thomson, Detention as Treatment, op. cit.

*of Social Welfare Division, Vientiane Labour and Social Welfare Service ... According to Mr. Khonesavanh, beggars who are arrested will be sent back to their hometowns or to a detention centre at Somsanga village which currently houses 22 beggars.*¹³⁸

Donors have also supported drug detention centre infrastructure in Viet Nam. As part of a million-dollar project funded by Australia, Luxembourg and Sweden, UNODC provided equipment for counselling clinics located in drug detention centres and the community.¹³⁹ Grant descriptions expressed no concern about the punishment rooms maintained in these centres or the routine physical and emotional violence inflicted upon detainees by the staff.

Japan likewise contributed to the infrastructure of Viet Nam's drug detention centres, with the Japanese Embassy donating \$86,197 USD to help 'the Ha Nam Drug Addict Treatment Center to construct rehabilitation facilities for women addicts'.¹⁴⁰ Another contribution of \$77,380 USD by Japan financed 'the construction of the Dormitory and Treatment House for Drug Addicts in the Center of Education, Labour and Social Affairs of Quang Nam Province'.¹⁴¹

c) Donor support as justification for the drug detention model

An important side-effect of material or

technical assistance for drug detention centres is that recipient governments may use such support to justify ongoing abuses. In some cases, it is easy to see why UN and donor support is viewed as endorsement.

'UNODC is keen to help Viet Nam expand its drug treatment services, both in compulsory centres and through community-based voluntary treatment,' said then-UNODC Director Antonio Maria Costa after a visit to Viet Nam, where he met Vietnamese officials and donor ambassadors, and visited a drug detention centre, according to UNODC newsletter Eastern Horizons.¹⁴²

A year earlier, UNODC had funded a report which was published by the government of Viet Nam and which lists UNODC as a co-author.¹⁴³ The report fails to mention the abuses in the facilities, and, while noting that 95% of detainees surveyed had previously spent time in detention centres, it concluded that the centres have had 'encouraging results'.¹⁴⁴ The document (which mentions in passing that some centres detain children under sixteen¹⁴⁵) lists some of the disciplinary measures the centres use, including 'keeping the subject in an isolated room' and 'having the subject do labor for the public interest'.¹⁴⁶ Calling 'production labor' a 'thorny issue', it nonetheless recommends additional 'construction and renovation of workshops where

¹³⁸KPL Lao News Agency (19 November 2009) Find beggars: dial 21 26 09.

¹³⁹See, for example, UNODC, VIEH68 – Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level; 2010 Semi-annual Project Progress Report, op. cit.; UNODC, VIEH68 – Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level: 2009 Quarterly Project Progress Report, copy on file with authors.

¹⁴⁰Australian/Japanese Regional Chair for South East Asia and China (June 2008) Regional Report [to the Dublin Group] on Southeast Asia and China, Brussels: Council of the European Union, p. 72.

¹⁴¹Japanese Regional Chair for South East Asia and China (January 2009) Follow-up Report [to the Dublin Group] on Southeast Asia and China for 2008, Brussels: Council of the European Union, p. 44.

¹⁴²UNODC, Regional Centre for East Asia and the Pacific (2006) UNODC meets with Viet Nam leaders, Eastern Horizons.

¹⁴³Standing Office for Drugs Control, Department for Social Evils Prevention, General Department of Preventive Medicine and Division of HIV/AIDS Prevention, Youth Union, and UNODC (2005) Reports on Survey Results. Project G22: Reduction of HIV Infection Risk Due to Drug Abuse in Vietnam, Hanoi.

¹⁴⁴ibid., p. 76.

¹⁴⁵ibid., p. 51.

¹⁴⁶ibid., p. 28.

rehabilitants often do therapeutic labour work¹⁴⁷ and describes ‘therapeutical labour’ as an ‘indispensable part of the treatment process’.¹⁴⁸ The report also recommends the application of ‘harsh measures’ for those who repeatedly relapse.¹⁴⁹

Meanwhile, in Lao PDR, US Embassy officials participate in ribbon-cutting ceremonies hailing the opening of new detention facilities.¹⁵⁰

In other cases, government officials claim support as endorsement. Cambodian officials responded to Human Rights Watch’s reports of abuse in the Choam Chao detention centre for children by saying that UNICEF support for the centre was proof that there were no abuses.¹⁵¹ A local Cambodian paper carried a photograph of a UNICEF vehicle allegedly used to carry children to juvenile detention, though UNICEF denied the claim.¹⁵²

Vietnamese government officials responded to Human Rights Watch’s report by claiming that their system of drug detention was in line with standards of the World Health Organisation, UNODC and the US National Institute on Drug Abuse (NIDA). As discussed earlier, this followed funding from the US Bureau of International Narcotics and Law Enforcement Affairs for a US-based drug treatment organisation to train Vietnamese government officials and staff at twenty drug detention centres on counselling methods and the therapeutic community

model.¹⁵³ NIDA and the US Office of National Drug Control Policy responded to the Vietnamese government’s claim by clarifying that:

*The practices alleged to have taken place in Vietnam’s drug detention centers are inconsistent with NIDA’s principles of drug treatment. Furthermore, agents who would routinely and without due process force drug users to undergo ‘treatment’ and ‘rehabilitation’ in the conditions described ... not only would violate NIDA’s principles of drug treatment, but also would infringe upon internationally recognized human rights.*¹⁵⁴

For their part, WHO and UNODC have not publicly responded to the Vietnamese government’s assertion that its system of drug detention centres using forced labour is in line with UNODC and WHO principles.

¹⁴⁷Ibid., p. 82.

¹⁴⁸Ibid., pp. 57, 82.

¹⁴⁹Ibid., p. 82.

¹⁵⁰See, for example, Embassy of the United States in Laos (2008) Somsanga dedication ceremony, available online at: http://laos.usembassy.gov/naspe_feb08_2008.html (date of last access: 13 June 2012).

¹⁵¹J. Amon (2010) How not to protect children, available online at: www.hrw.org/news/2010/03/08/how-not-protect-children (date of last access: 13 June 2012).

¹⁵²I. Loy (22 March 2010) UN denies abuse of drug users, Phnom Penh Post.

¹⁵³Department of Social Evils Prevention (2011) Letter from Do Thi Ninh Xuan to Joseph Amon, letter on file with authors.

¹⁵⁴Office of National Drug Control Policy (7 December 2011) Letter from R. Gil Kerlikowske and Nora Volkow to Joseph Amon and Rebecca Schleifer, available online at: www.whitehouse.gov/sites/default/files/ondcp/Blog/ondcp_nida_letter.pdf (date of last access: 13 June 2012)

TABLE 2:**Examples of technical, legal or material assistance for drug detention centres**

Project:	Technical Assistance to Treatment and Rehabilitation at Institutional and Community Level (VIEH68, 2006–2012)
Implementer:	UNODC
Beneficiary:	Viet Nam
Donors:	Australia, Luxembourg, Sweden
Budget:	\$1,649,800 USD
Results:	Capacity building for drug detention centre staff; Department of Social Evils Prevention staff used as ‘experts’; provision of equipment for counselling clinics inside drug detention centres
Concerns:	Drug detention centres in Viet Nam are essentially forced labour camps, where detainees are confined for years and compelled to work for private companies that contract with the centres. Former detainees have reported cruel, inhuman and degrading treatment that may rise to the level of torture. Furthermore, detainees do not have due process protections. In such circumstances, capacity building of staff and donations of equipment serve to sustain fundamentally flawed institutions rather than effecting their closure

Project:	Drug detention centre infrastructure (Various projects, 2001–2011)
Implementer:	N/A
Beneficiary:	Lao PDR
Donors:	US, Japan, Thailand, China, Brunei, Singapore, Sweden, Germany
Budget:	Not known
Results:	Construction and renovation of, and equipment for, various drug detention centres
Concerns:	Physical abuse and right to health violations have been documented in drug detention centres across Lao PDR. Screening for drug dependence is inadequate. Homeless people, those with mental disabilities and occasional drug users are confined alongside regular drug users; children are commingled with adults. Evidence-based drug treatment is largely absent. Governments facilitate these abuses by constructing such centres

Project: Institutional Reform and Capacity Building for Drug Control and Integrated Drug Abuse Prevention in Cambodia (KHMJ11, 2007–2009)

Implementer: UNODC

Beneficiary: Cambodia

Donors: Australia, Canada, Italy, Sweden, US

Budget: \$1,099,607 USD

Results: Legal advice and support for passage of new Cambodian drug law

Concerns: UNODC defence of the new law continued even after it became clear that the draft contained provisions that contravene human rights obligations. The final law lengthens terms of drug detention, opens the door for contracts with private employers (perhaps for forced labour) and provides legal impunity for detention centre staff

Project: Drug detention centre infrastructure (2008)

Implementer: N/A

Beneficiary: Viet Nam

Donor: Japan

Budget: \$163,577 USD

Results: Construction of facilities for women at the Ha Nam Drug Addict Treatment Centre and construction of a dormitory at a drug detention centre in Quang Nam province

Concerns: Human rights violations, such as forced labour, solitary confinement and physical abuse, are endemic in Viet Nam's drug detention centres. People are confined for years without due process or right of appeal

Project: Drug treatment trainings (2005–2007)

Implementer: Daytop International

Beneficiaries: Viet Nam, Cambodia

Donor: US Bureau for International Narcotics and Law Enforcement Affairs

Budget: Not known

Results: Drug detention centre staff from Viet Nam and Cambodia were trained on the therapeutic community model

Concerns: Drug detention staff in the two countries physically abuse detainees, and most lack a medical background. Such guards cannot make effective counsellors. Moreover, the training risks lending credibility or a stamp of approval to illegal institutions

Project: Reducing HIV Vulnerability from Drug Abuse (RASG22, 2002–2007)

Implementer: UNODC

Beneficiaries: Burma, Cambodia, China, Lao PDR, Thailand, Viet Nam

Donors: Australia, Canada, Luxembourg, Netherlands, Sweden, UNAIDS, UK

Budget: \$1,378,311 USD

Results: A self-help pilot project was instituted inside a Chinese drug detention centre; a report was published on ‘Reduction of HIV Infection Risk Due to Drug Abuse in Vietnam’

Concerns: The self-help pilot in a Chinese drug detention centre seems misguided in an atmosphere where individuals have so little freedom to protect their health and rights. The report financed by the project, which lists UNODC as a co-author, supports the drug detention centre approach in Viet Nam and encourages harsh punishments and forced labour; this makes it appear that UNODC itself supports such approaches

3. Complicity and the Legal Responsibilities of Donor States and Organisations

This report is not the first account of donor complicity in human rights abuses committed in the name of drug control. In June 2010, with support from the European Union, Harm Reduction International published the report, *Complicity or Abolition? The Death Penalty and International Support for Drug Enforcement*.¹⁵⁵ Numerous other reports have documented abuses in drug detention centres throughout Southeast Asia that receive financial support from international donors.¹⁵⁶ This is, however, the first collection of this information, and shows an emerging pattern of human rights blindness in drug enforcement.

The existence of so much information and so few guidelines to prevent donor complicity in abuses raises the question of how greater pressure can be exerted to prevent inadvertent support of slavery, torture and death. While, for example, the recent statement by twelve UN agencies calling for closure of drug detention centres is a welcome development, steps should be put in place to ensure that future projects supported or carried out by the

agencies do not inadvertently undermine that goal. Similarly, ad hoc human rights oversight applied by donor governments needs to be more rigorously and consistently applied to drug enforcement.

In recent years there has been a growing effort to clarify the legal responsibilities of international organisations and to explore how organisations can carry out their mandates in a manner that is human rights compliant.¹⁵⁷ The International Law Commission (established by the UN General Assembly to consider key questions in international law) has issued draft articles on the responsibility of international organisations. These offer some guidance on how complicity is to be judged. The ILC states:

An international organization which aids or assists a State or another international organization in the commission of an internationally wrongful act by the State or the latter organization is internationally responsible for doing so if: (a) That organization does so with knowledge of the circumstances of the internationally

¹⁵⁵ R. Lines, D. Barrett and P. Gallahue (2010) *Complicity or Abolition? The Death Penalty and International Support for Drug Enforcement*, London: Harm Reduction International.

¹⁵⁶ See, for example, Human Rights Watch (31 January 2010) Statement. Cambodia: UN should review role in drug detention. Press government to investigate, close down abusive programs, hold torturers accountable; Human Rights Watch (2011) *The Rehab Archipelago: Forced Labor and Other Abuses in Drug Detention Centers in Southern Vietnam*, New York: Human Rights Watch; Human Rights Watch (2011) *Somsanga's Secrets: Arbitrary Detention, Physical Abuse, and Suicide Inside a Lao Drug Detention Center*, New York: Human Rights Watch; N. Thomson (2010) *Detention as Treatment: Detention of Methamphetamine Users in Cambodia, Laos, and Thailand*, New York: Open Society Institute.

¹⁵⁷ See, for example, First Report of the Special Rapporteur, Giorgio Gaja (55th session of the ILC (2003)) UN Doc. A/CN.4/532; Second Report of the Special Rapporteur, Giorgio Gaja (56th session of the ILC (2004)) UN Doc. A/CN.4/541; Third Report of the Special Rapporteur, Giorgio Gaja (57th session of the ILC (2005)) UN Doc. A/CN.4/564; Fourth Report of the Special Rapporteur, Giorgio Gaja (58th session of the ILC (2006)) UN Doc. A/CN.4/583; Fifth Report of the Special Rapporteur, Giorgio Gaja (59th session of the ILC (2007)) UN Doc. A/CN.4/597; Sixth Report of the Special Rapporteur, Giorgio Gaja (60th session of the ILC (2008)) UN Doc. A/CN.4/610; Seventh Report of the Special Rapporteur, Giorgio Gaja (61st session of the ILC (2009)) UN Doc. A/CN.4/610.

The UN Special Rapporteur on the Responsibility of International Organizations of the International Law Commission (ILC) wrote of this obligation, 'an international organization could incur responsibility for assisting a State, through financial support or otherwise, in a project that would entail an infringement of human rights'.

*wrongful act; and (b) The act would be internationally wrongful if committed by that organization.*¹⁵⁸

Professor Giorgio Gaja, the ILC's Special Rapporteur on the Responsibility of International Organizations, wrote of this obligation:

*[A]n international organization could incur responsibility for assisting a State, through financial support or otherwise, in a project that would entail an infringement of human rights of certain affected individuals.*¹⁵⁹

Many of these principles were derived from the obligations to member states involved in cooperative external action as well. The principle of state responsibility for aiding or assisting another state in the commission of an internationally wrongful act has been spelled out by the ILC. Article 16, which reflects a rule of customary international law,¹⁶⁰ provides:

A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be

*internationally wrongful if committed by that State.*¹⁶¹

The UN General Assembly approved the ILC's Articles on the Responsibility of States for Internationally Wrongful Acts in 2001.

In many instances these obligations are explicitly acknowledged. For example, the EU Drugs Strategy (2005–2012) 'is based first and foremost on the fundamental principles of EU law and, in every regard, upholds the founding values of the Union: respect for human dignity, liberty, democracy, equality, solidarity, the rule of law and human rights'.¹⁶²

Moreover, the need to ensure that drug control money does not facilitate human rights abuses was explicitly called for by the European Parliament following the publication in 2010 of Harm Reduction International's Complicity or Abolition? report. The European Parliament wrote in a December 2010 resolution:

[The EP] calls on the Commission to develop guidelines governing international funding for country-level and regional drug enforcement activities to ensure such programmes do not result in human rights

¹⁵⁸UN (2009) Report of the International Law Commission: Sixty-First Session (4 May–5 June and 6 July–7 August 2009), A/64/10, New York: United Nations, ch. IV.

¹⁵⁹Third report on responsibility of international organizations by Giorgio Gaja, Special Rapporteur (13 May 2005) A/CN.4/553, para. 28. Courts have also ruled on the obligations of international organisations to ensure that activities do not violate human rights. See, for instance, Waite and Kennedy v Germany (Application 26083/94), European Court of Human Rights judgment of 18 February 1999, para. 67.

¹⁶⁰Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (4 February 2009) A/HRC/10/3, para. 53f59.

¹⁶¹UN General Assembly (28 January 2002) Responsibility of States for internationally wrongful acts: Resolution adopted by the General Assembly, A/RES/56/83.

¹⁶²Council of the European Union (22 November 2004) EU Drugs Strategy (2005–2012), Brussels, 15074/04, para. 2.

THE EUROPEAN PARLIAMENT CALLED ‘ON THE COMMISSION TO DEVELOP GUIDELINES GOVERNING INTERNATIONAL FUNDING FOR COUNTRY-LEVEL AND REGIONAL DRUG ENFORCEMENT ACTIVITIES TO ENSURE SUCH PROGRAMMES DO NOT RESULT IN HUMAN RIGHTS VIOLATIONS’.

*violations, including the application of the death penalty; stresses that the abolition of the death penalty for drug-related offences should be made a precondition for financial assistance, technical assistance, capacity-building and other support for drug enforcement.*¹⁶³

All of this demonstrates a recognised need to ensure that human rights guidance and conditions accompany drug control assistance. To some degree, donors have attempted to address this need, though greater steps are sorely needed.

In late 2011, the UK produced a document entitled Human Rights Guidance for its Overseas Security and Justice Assistance, which includes support for drug control. The guidance requires personnel to assess risks associated with certain types of assistance in advance of providing aid and then take steps to mitigate that risk. Specifically identified risks, among many others, include the death penalty; arbitrary detention; torture or cruel, inhuman and degrading treatment; unlawful killing; and unfair trials or denial of justice.¹⁶⁴ The US should adopt similar human rights guidelines for its foreign aid.

UNODC has identified risks and

considered developing internal monitoring processes. In May 2012, it released a position statement on the promotion and protection of human rights. It followed a previous paper submitted to both the UN Commission on Narcotic Drugs and the Commission on Crime Prevention and Criminal Justice in 2010.¹⁶⁶

The 2012 paper specifically cites both the death penalty and drug detention centres. On the death penalty, UNODC states that if, in spite of interventions and efforts:

*[A] country actively continues to apply the death penalty for drug offences, UNODC places itself in a very vulnerable position vis-à-vis its responsibility to respect human rights if it maintains support to law enforcement units, prosecutors or courts within the criminal justice system ... At the very least, continued support in such circumstances can be perceived as legitimizing government actions. If, following requests for guarantees and high-level political intervention, executions for drug-related offences continue, UNODC may have no choice but to employ a temporary freeze or withdrawal of support.*¹⁶⁷

On drug detention, UNODC expressed concerns about documentation reporting

¹⁶³European Parliament (16 December 2010) Resolution on the annual report on human rights in the world 2009 and the European Union's policy on the matter (2010/2202(INI)), P7_TA-PROV(2010)0489, para. 65.

¹⁶⁴HM Government, Overseas Security and Justice Assistance (2011) Human Rights Guidance.

¹⁶⁵UNODC (2012) UNODC and the Protection and Promotion of Human Rights, available online at: www.unodc.org/documents/justice-and-prison-reform/UNODC_HR_position_paper.pdf (date of last access: 13 June 2012).

¹⁶⁶UNODC (2010) Drug control, crime prevention and criminal justice: a human rights perspective. Note by the Executive Director (Commission on Narcotic Drugs, Fifty-third session, Vienna, 8–12 March) E/CN.7/2010/CRP.6–E/CN.15/2010/CRP.1*.

¹⁶⁷UNODC and the Protection and Promotion of Human Rights, op. cit.

forced labour, cruel, inhuman and degrading treatment, and even torture, and said:

Direct UNODC support to any institution in which the above violations are reported places UNODC at an unacceptably high risk of providing aid or assistance to human rights abuses. UNODC must in such cases either work with these institutions to improve the human rights situation, or to consider withdrawal of support. In countries where such centres are present, UNODC should support government efforts to implement an evidence-based alternative to such centres, including voluntary drug dependence treatment programmes at community level. UNODC should also be clear in a call to the government to end all forms of arbitrary detention and to make available voluntary, low-cost, community-based drug dependence treatment, rehabilitation and reintegration.¹⁶⁸

According to the document, UNODC is preparing to take steps to operationalise the paper, through the development of a 'human rights planning tool', in order to ensure the agency's operations are consistent with its guidance from design through to implementation.¹⁶⁹ Much hangs on this planning tool. It remains to

be seen whether these words on paper can be put into practice in a transparent way, so that UNODC can be held accountable for them.

Given the urgency of the situation and the scale of abuse, greater and more proactive steps are needed from UNODC and from donor states to prevent these abuses before they occur as well as to empower implementing agencies to react swiftly if such abuses arise in the course of a project. As Professor Paul Hunt said while UN Special Rapporteur on the Right to Health:

One of the central features of human rights is accountability. Without accountability, human rights can become no more than window-dressing.¹⁷⁰

¹⁶⁸UNODC and the Protection and Promotion of Human Rights, op. cit.

¹⁶⁹UNODC and the Protection and Promotion of Human Rights, op. cit.

¹⁷⁰P. Hunt (2008) Foreword, in H. Potts, Accountability and the Right to the Highest Attainable Standard of Health, Colchester: University of Essex, Human Rights Centre.



RECOMMENDATIONS

Donor states and implementing agencies, including UN agencies, should:

- **ADOPT** clear policy guidelines rooted in international human rights standards for financial, technical and other assistance provided for drug enforcement, demand reduction or related projects (such as HIV-focused programming) in recipient states.
- **AUDIT** all current funding and programmatic activities for compliance with adopted policies to ensure that no funding or programmes contribute (directly or indirectly) to violations of international human rights law, including the right to life and prohibitions on arbitrary detention, forced labour, torture and cruel, inhuman or degrading treatment or punishment.
- **TAKE IMMEDIATE ACTION** on problems identified in the audit and freeze support where governments refuse to put an end to abuses.
- **IMPLEMENT** a transparent system of human rights impact assessments to include initial predictive risk assessments; action on identified risks throughout the lifetime of projects; and evaluation of each project set against the identified risks and actions taken.

PARTNERS IN CRIME:

International Funding for Drug Control and Gross Violations of Human Rights

States are routinely reminded of their 'shared responsibility' to combat drug use and the drug trade. The approaches used to meet this 'shared responsibility', however, more often rely on law enforcement than on health care or social services. They tend to focus on punishment rather than assistance.

Human rights abuses in the context of drug enforcement are well documented, but in the name of drug control, donor states are routinely supporting practices in other countries that they themselves regard as morally reprehensible and illegal.

The consequences are far from abstract; they can be measured in the lives and health of thousands of people in many countries around the world.

As this report documents, millions of dollars and euros in drug enforcement funding and technical assistance are spent in countries in which human rights violations are rife. Using the examples of the death penalty and abusive drug detention centres, this report shows just how little regard is given to human rights in drug enforcement funding and co-operation, including when such funds are passed through the United Nations.

HARM REDUCTION INTERNATIONAL is one of the leading international non-governmental organisations promoting policies and practices that reduce the health and social harms associated with drug use and the negative social, health, economic and criminal impacts of drug laws and policies on individuals, communities and society.

Our vision is a world in which individuals and communities benefit from drug laws, policies and practices that promote health, dignity and human rights.

We work to reduce drug-related harms by promoting evidence-based public health policy and practices and human rights-based approaches to drug policy through an integrated programme of research, analysis, advocacy and collaboration with civil society partners.



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