

# Human Rights Report of Drug Users in China

—A Joint Report from Chinese Civil Society

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## Summary

There are huge amount of drug users in China. According to the number announced by the Ministry of Public Security “China 2012 Anti-drug Report”, by the end of 2011, there were 17.94 million registered drug users in China. (However the amount of recessive drug users might be 3 times as big as these number). Using drugs is considered as a behavior of anti-socialist ideology, anti-morality and anti-social, in some cases it was criminalized. In the scope of Chinese ideology, morality and legal system drug users were stigmatized community, thus their basic human rights were not only severely violated by state but also faces various discriminations from society and the government agencies alike. Drug users are main victims of Labor reeducation system in China, and forced isolation treatment is a continuation of reeducation through labor system; At the same time, mandatory drug treatment is more severe than compulsory treatment and reeducation-through-labor; Forced isolation treatment and reeducation-through-labor of the drug users, deprivation liberty, and the lack of the court's ruling; Managing the advanced real-time dynamic management and control system rigidly, which resulted the violation of freedom of movement and privacy for those who have already quit; The stigma and discrimination faced by drug users, leads to the lack of social welfare of their family.

This report analysed the above-mentioned problems and put forward a number of recommendations for consideration.

## Keyword:

Drug Users

Labor Reeducation Syetem

“Real-time Dynamic Management and Control”

Social Welfare

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### Foreword

China is one of the biggest countries in the world that suffered seriously from drugs, as there are huge amount of drug users in China. According to the number announced by the Ministry of Public Security “China 2012 Anti-drug Report”, by the end of 2011,there were 17.94 million registered drug users in China.(However the amount of recessive drug users might be 3 times as big as these number). Living in a country like China, which has notorious human rights record, being a marginalized community-drug users are facing serious human rights violation as well.

Since 2007, China established a legal system, which was centered by “Anti-drug Law”, constituted by the following regulations and laws such as “Drug Rehabilitation Act” “Views on Application of Laws on Drug Related Criminal Cases”, “Regulations on Drug Users Registry”, “Regulation on Drug Testing Procedures”, “Regulations on Public Security Agencies’ Managing Forced Isolated Rehabilitation Center” “Regulations on Drug Medical Management”, “Regulations on Confirming Drug Addiction”, “Regulations on Managing Pharmaceutical precursor chemicals”.

Even though, all those Law, Regulations and Acts have already had obvious progress compare to the past practices, as in those laws, regulations and acts started to treat drug users from public health approach, which shows their good will of educating and helping drug users to quit. Among those laws and regulations one could still realize that, using drugs is considered as a behavior of anti-socialist ideology, anti-morality and anti-social, in some cases it was criminalized. In the scope of Chinese ideology, morality and legal system drug users were stigmatized community, thus their basic human rights were not only severely violated by state but also faces various discriminations from society and the government agencies alike.

Human Rights of Drug Users are not the rights of a special minority group, but it is the right of an ordinary individual. Protect the rights of drug users, which means that the government agencies should guarantee their basic constitutional rights. Since those basic rights of them were very much neglected in all levels of laws, as well as in their real practices.

At present, there are following issues in terms of protecting the rights of drug users in China.

### **1. Drug Users and Labor Reeducation System**

Labor Reeducation System is concerned with health right, right of personal freedom, litigation right and right of labour.

Drug users are main victims of Labor reeducation system in China.

February 9, 2009, the United Nations Human Rights Council Universal Periodic Review mechanism of the first round, the fourth working group meeting to review the human rights in China. During which Sudan recommended “China should reform education through labor system according its national situation, to promote human rights”. Chinese Government accepted Sudan’s recommendations on the reform of the reeducation through labor system.

January 7, 2013, the Politics and Law Committee of the CPC Central Committee held a work meeting, in this meeting the Politics and Law Committee secretary Meng Jianzhu stated that they will further promote the reform of the reeducation through labor system , Meng Jianzh also announced that, the CPC Central Committee to study and report to the Standing Committee of the National People's Congress to approve that, this year they will stop the use of re-education through labor system in China.

We welcome the views of the Politics and Law Committee of the CPC Central Committee on the reform of the reeducation through labor system, and report to the Standing Committee of the National People's Congress approve this year to stop the use of re-education through labor system. However, we believe that China is not only the need to reform and stop the use of re-education through labor system, but they also nneed more reform of the reeducation through labor system of detoxification and forced isolation treatment.

1) Under the system of reeducation through labor major victims are drug users (China's official language, “drug addicts”)

According to the “Nanfang Daily” January 29, 2013, the Guangdong Provincial Department of Justice Minister strict planting Chan attend the Provincial People's Congress meeting, told

reporters that, “At present, a large number of inmates in Guangdong is compulsory treatment and rehabilitation of drug users”. According to the Nanfang Daily reporter that the Ministry of Justice in 2008 Reeducation Through Labor issued the recent well forced isolation treatment implementation, Guangzhou labor camp added a mandatory isolation Drug Addiction Treatment brand, the official responsible for receiving the forced isolation treatment personnel served by the public security organs. Nanfang Daily said, “the data shows that a total of reeducation through labor are more than 18,000, of which 14,000 are drug users, about 80%”.

According to the China National Narcotics Control Commission Narcotics Report 2012, 2011, with drug acts personnel seized personnel were 413,000, among them 235,000 are newly discovered drug users ; Totally there are 577,000 legally dispose of drug users , as annual growth of 8.3%, mandatory quarantine treatment for 171,000 of which disposal ordered community drug treatment and community rehabilitation are 97000.

## 2) Forced isolation treatment is a continuation of reeducation through labor System

“Reeducation through labor pilot scheme” (January 21, 1982 the State Council issued [1982] 17 document forwarding): “reeducation through labor reeducation through labor to implement administrative measures of forced re-education is a contradictions among the people.” Article 13: “reeducation through labor period, according to the criminal fact in need of re-education through labor, the nature of the plot, motivation and the degree of harm to determine for one to three years.”

December 28, 1990, the Standing Committee of the National People's Congress adopted the decision “on the anti-drug provisions: addictive drug ingestion or injection, in addition to penalties in accordance with the provisions of the preceding paragraph, be forced to quit, treatment, compulsory education and then quit drugs, can be re-educated through labor, and compulsory detoxification in the re-education through labor system.

January 12, 1995 the State Council issued the “Compulsory Drug Addiction Rehabilitation”, in Article VI it states that : the compulsory detoxification period is of three months to six months from the entry to the date of exit. “Combined with the actual rehabilitation work of re-education through labor, according to a decision about the anti-drug”, the State Council “reeducation through labor pilot scheme” and “compulsory treatment approach” and other relevant provisions of the Standing Committee of the National People's Congress, China's Ministry of Justice issued on June 2, 2003. The correctional rehabilitation work Provisions, which was in effective from August 1,

2003. According to the State Council “reeducation through labor pilot scheme”, re-education through labor drug treatment period of 1-3 years.

Narcotics Control Law of the People's Republic of China came into effect on June 1, 2008 provides that “addicts personnel should conduct the drug treatment”. Of addicts personnel, the public security organs can be ordered to accept the community drug rejected by the community drug community drug during smoking, injection drug use, a serious violation of community drug treatment protocol by the community drug treatment after the forced isolation treatment, injecting drug users, the public security organs in forced isolation treatment decisions can be made. At the same time, for serious drug addiction, which could not be treated through community drug rehabilitation centre, the public security organs can directly implement the forced isolation treatment decision.

Subsequently, reeducation through labor outside of a venue "forced isolation treatment by" is just a name. Although the Chinese government once claimed that the abolition of reeducation through labor drug treatment, and the implementation of forced isolation treatment, but in fact, forced isolation Drug Addiction Treatment is still two brands of one institution in accordance with the management system of reeducation through labor sites, and over the judiciary announced drug treatment, forced isolation still be counted in the statistics of reeducation through labor.

According to the "Nanfang Daily" January 29, 2013, the Department of Justice in 2008 Reeducation Through Labor issued a "notice" about the recent good implementation of forced isolation treatment, Guangzhou reeducation through labor places all add a mandatory isolation Drug Addiction Treatment brand officially is responsible for receiving the forced isolation drug users who have served by public security organs.

3) Mandatory drug treatment is more severe than compulsory treatment and reeducation-through-labor.

On January 12, 1995, the State Council issued the “Compulsory Drug Addiction Rehabilitation” Article VI: “Drug users should stay in compulsory rehabilitation centers for a period of three months to six months from the entry to date of expiry of the compulsory treatment; and the actual implementation of the compulsory rehabilitation treatment should not pass more than one year.”

According to the “reeducation through labor Trial Measures” and reeducation through labor rehabilitation work requirements, re-education through labor, drug treatment period is 1-3 years.

Article 47 of the drug law has more stringent requirements: “forced isolation treatment period is two years”. Anti-drug law: the implementation of compulsory isolation one year after drug treatment, diagnostic evaluation, drug treatment drug treatment situation personnel forced isolation rehabilitation centers can be proposed early termination of the views of forced isolation treatment, decided to submit a compulsory isolation detoxification authorities. compulsory isolated drug treatment before the expiration of the diagnostic evaluation and rehabilitation centers for drug users need to extend drug treatment period, forced isolation proposed to prolong drug treatment period, the decision to submit a compulsory isolation detoxification authorities. compulsory isolation detoxification period can be extended up to one year”.

Article 48 of the Narcotics Act forced isolation treatment stated that, forced isolation detoxification decision authority may be ordered to accept no more than three years of community-based rehabilitation.

On June 26, 2011, the State Council issued the Drug Addiction Treatment Centres Ordinance, in its Article 27 states: “forced isolation treatment for a period of two years, calculated from the date of the decision from making the forced isolation treatment”. Compulsory isolation detoxification personnel should go to the judicial administrative department of the forced isolation in the public security organs in place for the execution forced isolation treatment 3 months to 6 months after drug treatment, rehabilitation centers continue to perform forced isolation treatment.

Based on the above mentioned provisions, the current implementation of the drug law and drug treatment provisions of the Ordinance of forced isolation treatment not only forced isolation treatment period of 2-3 years, and was relieved to forced isolation treatment, but also need to accept no more than three years of community-based rehabilitation. At the same time, a period equivalent to the drug law before the promulgation of the “compulsory detoxification” and “re-education through labor detoxification” both deadline and forced isolation treatment.

4) Forced isolation treatment and reeducation-through-labor of the drug users, deprivation liberty, and the lack of the court's ruling.

According to Drug law Article 40: “the public security organs decide to forced isolation treatment for drug users, written decision shall be made compulsory, which will be served to decid

before the implementation of forced isolation treatment, and served in within 24 hours notify the decision to the families of the unit to which they belong and domicile police station; to inform personal information, which includes their address and names, unidentified public security organs shall identify its identity after notification”. Forced isolation treatment of the public security authorities to decide dissatisfied, he may apply for administrative reconsideration or bring an administrative lawsuit.

In 1998, China signed the United Nations Civil and Political Rights, the International Covenant on its 9 states: “except in accordance with the basis and procedures prescribed by law, no person shall be deprived of their liberty”. Also section 37 of the Chinese Constitution provides: personal freedom of citizens of the People's Republic of China is inviolable.

Abolish the reeducation-through-labor system matches both the United Nations “International Covenant on Civil and Political Rights”, and the spirit of the Chinese Constitution. At the same time, the abolition of reeducation through labor system, it is necessary to repeal the drug policy, which was established on top of the reeducation through labor system.

5) Chinese “Mental Health Act” should establish the principle of voluntary hospitalization.

October 26, 2012, the Standing Committee of the National People’s Congress passed the “People's Republic of China and the Mental Health Act”, in which the Article 30 provides: “The implementation of the Voluntary hospitalization Principles for mental disorders. If the diagnostic conclusion, illness assessment indicates serious mental disorders, such as (a) has had the behavior of harming themselves or being in the risk of harming themselves; (b) has had acts of endangering the safety of others , or being in risk of endangering the safety of others”.

According to above mentioned analysis, the current implementation of the compulsory isolation detoxification and past implementation of compulsory treatment or reeducation through labor rehabilitation measures, whether see them as disciplinary measures of criminal behavior, or as a mental health treatment, both of them lacks appropriate legal basis.

## **2. Drug Users and “Real-time Dynamic Management and Control”**

“Real-time Dynamic Management and Control” is concerned with the right of privacy, the right of personal freedom, work right and personal right.

Managing the advanced real-time dynamic management and control system rigidly, which resulted the violation of freedom of movement and privacy for those who have already quit;

Along with the development of internet and information control, Ministry of Public Security has already developed advanced security information control system, which conducts strict dynamic and comprehensive control towards the drug users who were under registry, the petitioners, past criminals and so on. The personal information of all those above mentioned population is shared by the public security system in China. Therefore, the public security agency could identify their movement through the ID identification terminal equipment, which was placed within the public security organs, hotels, airports, docks, trains and customs once they have showed their ID in those places, as most of the time they have to show their ID in order to access the services in those places. Once their ID information showed in public security system, they certainly will attract nearby police men to come over, then they would conduct follow up investigations, enforced test for the past drug users, all of the practices will be conducted under the name of insuring social stability, and reducing criminal activities.

According to article 7 of “Drug Treatment Provision” , which was passed by China state council on June 22<sup>nd</sup> 2011, stated that to the people who have quit for 3 years, related government departments will not apply dynamic control to them. However, there is no concrete implementation of this regulation till today. Regarding the implementation of this article, Beijing AIZHIXING Institute submitted a open letter to the Public Security Agency in 2011, but didn’t get any detailed response from them, as this article has never been put into practice.

Among the registered drug users in China, many of them have already quit for three years, but when they enter hotel, seeking for employment, travelling and so on, they always will face compulsory drug test in those spaces by the police, those practice will surely expose their privacy, which will result serious discrimination towards them. In the long term, it will affect the harmony of their relationships, even lead them to lose their jobs. As among them there were some past drug user harm reduction staff, who were affected by this practice.

At the same time, there are state staff, abusing this system, by entering the information of those who have never had drug use history, or similar ID information ect. All of this unethical implementation of this system put other citizens in risk of being stigmatized.



Therefore, concerning this kind of system abuse, we require that the related state department should evaluate the real-time dynamic management and control system, and after the evaluation announce proper implementation mechanism of stop applying dynamic control towards the ones who haven't use drugs for three years, which was stated in "Drug Treatment Provision", and update the information in the system.

### **3. Drug Users and Social Welfare**

The stigma and discrimination faced by drug users, leads to the lack of social welfare of their family. And it is concerned with equal right.

Article 9 of the "International Convention on Economic, Social and Cultural Rights" provides that everyone has the right to social security, including social insurance. Drug users are citizens of the People's Republic of China, so they should also enjoy the same social assistance welfare, protection of the basic substance as other citizens of China. "The Narcotics Control Act" and the "Drug Addiction Treatment Centres Ordinance" provides that drug users should not discriminated against in education, employment, access to social security. But in real life, the drug users suffered institutional discrimination.

In Henan, Fujian, Guangdong, Hainan, Qinghai, Sichuan, Inner Mongolia, Ningxia, Gansu, Liaoning, Jilin, Heilongjiang, Hunan, Hubei, Jiangxi, Jiangsu, Tibet, and Xi'an, Qingdao, Xiamen, Hangzhou, Nanning, Fuzhou City, Changsha, Changde City, Hegang, Zhaoqing City, Dongying City, Daqing City, Rizhao City, bortala Mongolian Autonomous Prefecture of civil affairs departments in the normative documents expressly prohibited drug users to have minimum living living assistance or medical assistance to enjoy social security. Meanwhile, some provinces (autonomous regions and municipalities directly under the central government) Home Office (Bureau) file limit drug education without corrections personnel to obtain the minimum living allowance. Moreover, in many parts of the provisions, as long as there is one person in the family is drug user , the whole family could not enjoy the minimum living security and social assistance benefits.

Therefore we require that: the provinces (autonomous regions and municipalities directly under the central government) Home Office (Bureau) introduce the minimum living allowance and medical assistance and other social security documents to conduct a comprehensive research review

and clean up the introduction of local drug users, make sure that they could access social security without discrimination.

#### **4. Recommendations**

According to those facts, we would raise following recommendations:

1. Should joint multidisciplinary scholars and experts conduct a scientific research and evaluation towards the long lasted labor education rehabilitation policy and enforced isolated rehabilitation policy, community drug rehabilitation, community rehabilitation, methadone maintenance ‘treatment’ and ‘rehabilitation’ measures, thus provide scientific evidences to the policy reform.

2. Upon reforming current reeducation through labor system, should stop this system. Reform current compulsory isolation treatment system and disguised reeducation through labor system. For which we recommend:

1)Confirm that drug addiction and drug use are public health issue, which will not necessarily result criminal activities;

2)Strictly use the article of ‘Compulsory Drug Rehabilitation’ Measures in “ Anti Drug Law” and “ Drug Rehabilitation Act”;

3)Should fully develop and guarantee the ‘Voluntary Drug Rehabilitation’ and ‘ Community Rehabilitation’ measures which are also mentioned in” Anti Drug Law” and “ Drug Rehabilitation Act”, on which gives health department, civil affairs department and civil society primary role in drug rehabilitation work;

4)To those drug users, who have involved in criminal activities , should be punished according to the law; If their criminal activities were resulted by drug use, should require compulsory drug rehabilitation; And, to those who have agreed to take compulsory rehabilitation, should reduce or exempt from criminal punishment. And, to those who won’t agree with the compulsory rehabilitation measure, punish according to the laws. This compulsory rehabilitation measures should be carried out by health department, civil affairs department or civil society organizations.