



## **Submission to the UN Special Rapporteur on Torture**

### **On the ‘accountability gap’ for torture and ill-treatment in private drug treatment centres**

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#### **Submitting organisation:**

The International Drug Policy Consortium is a global network of 191 non-government organizations that advocate for drug policy reform to advance social justice and human rights.

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## Executive summary

1. The International Drug Policy Consortium welcomes the opportunity to provide a submission to the UN Special Rapporteur on Torture concerning the existing challenges to achieving accountability for the overwhelming number of cases of torture and cruel, inhuman, and degrading treatment or punishment ('ill-treatment') committed against people who use drugs in private drug treatment centres.
2. Across the world, thousands of people who use drugs are detained against their will in private drug treatment centres. From India to Guatemala to Brazil, a range of horrifying abuses are routinely inflicted on people who use drugs, including inappropriate medical treatment, protracted solitary confinement, forced labour, sexual violence, and beatings, sometimes leading to death. The Committee Against Torture had made clear that states bear responsibility for prohibiting, preventing, and providing redress for torture and ill-treatment in 'all contexts of custody or control'<sup>1</sup>, as it is the case in drug treatment centres.
3. Drawing on empirical evidence, this submission highlights four systemic drivers of the global 'accountability gap' for torture and ill-treatment in private drug treatment centres.
  - The stigmatisation and criminalisation of people who use drugs, which fuel abuses, and act as an impediment to accountability;
  - The prevalence of compulsory drug treatment programmes;
  - The absence of a range of affordable, evidence-based, and rights-compliant drug treatment services provided by public authorities; and
  - The systematic lack of public mechanisms to authorise and monitor private centres, and to investigate and provide redress for abuses.
4. These drivers are common to other medical settings in which marginalised and discriminated people, such as people with disabilities and people experiencing mental health issues, are interned against their will, and where torture and ill-treatment are also endemic.

## Empirical evidence on torture and ill-treatment in private drug treatment centres

5. In recent years, privately-run drug treatment centres, also called 'rehabilitation' or 'de-addiction' centres, have proliferated across the world. In some cases, people who use drugs are detained in these facilities against their will; they are subject to interventions that lack a sound scientific basis, and in some cases are subject to torture in the guise of drug 'treatment', or as discipline. Reports of this trend have been found in countries as diverse as Brazil, Cambodia, India, Iran, Mexico, Nepal and Puerto Rico, among others.<sup>2</sup>
6. Few states provide quality data and information on these facilities, which means that we lack a global estimate of the number of people interned in private drug treatment centres. However,

with over a thousand unregistered centres in Mexico alone<sup>3</sup>, it is reasonable to estimate that there are tens of thousands of people interned in private drug treatment centres globally.

7. While private drug treatment centres have emerged in a wide variety of political and cultural environments, six common features can be identified in almost all countries.

#### Feature 1. Involuntary internment & treatment

8. Reports show that people who use drugs are, in some cases, forcibly interned in centres, and subject to drug treatment against their will. Instances of police detaining people who use drugs and taking them to private treatment centres –sometimes for a financial gain– are documented across Central America,<sup>4</sup> as well as in Asian countries like Iran<sup>5</sup> and Nepal. In other cases, families themselves forcibly commit people who use drugs to private treatment centres. Even more shocking are the cases of militias or ‘spiritual patrols’ organised by private centres themselves to kidnap people who use drugs, often using violence.<sup>6</sup> Some centres will not allow people to leave the facility until they are considered sufficiently ‘rehabilitated’.<sup>7</sup>
9. In most cases, the internment of people who use drugs in private treatment centres is carried out by private actors through informal means, without official authorisation, and is deprived of any legal safeguards. This special mandate has previously underlined the requirement of consent for drug dependence treatment.<sup>8</sup>

#### Feature 2. Inappropriate treatment

10. Many private centres run ‘rehabilitation’ programmes that are abstinence-based only. Often grounded in religious beliefs and disciplinarian methods, these programmes discard scientific health interventions such as opioid agonist therapies (OAT), like methadone or buprenorphine.<sup>9</sup> Denying OAT to a person suffering withdrawal symptoms is commonly regarded as a form of ill-treatment,<sup>10</sup> and can sometimes have lethal consequences. In many cases, treatment is imposed on people who use drugs but do not have any drug dependence –in fact, around 90% of people who use illegal drugs do not develop a drug dependence.<sup>11</sup>

#### Feature 3. Prevalence of torture and ill-treatment

11. There is an overwhelming number of reports of torture and ill-treatment in privately-run drug treatment centres in a broad range of countries, which points to the systemic and truly global nature of this issue. In **Annex 1**, we provide a list of examples gathered by civil society and journalists.

#### Feature 4. Criminalisation of people who use drugs

12. It is notable that, with the exception of Mexico, all the countries listed in Annex I criminalise drug use and drug possession for personal use.<sup>12</sup> (Research shows that decriminalisation in Mexico has been highly problematic, as people who use drugs have continued to be arrested and subject to criminal proceedings at ever greater rates, due to the fact that only very small amounts of drugs are decriminalised).<sup>13</sup>

13. The criminalisation of drug use and possession for personal use can be a significant driver of abuses in drug treatment centres, as it justifies the pathologisation and dehumanisation of people who use drugs. It could also be a challenge to achieving accountability, as research shows that it operates a barrier between people who use drugs and the staff of public health and law enforcement bodies.<sup>14</sup>

Feature 5. Absence of a range of public, affordable, and evidence-based drug treatment services

14. The examples collected in **Annex 2** show that the absence of an affordable, evidence-based, and rights-compliant treatment system provided by public authorities is a common feature of many countries where abuse is rife. In addition to being an infringement of states' obligations under the right to health,<sup>15</sup> such absence has fuelled the emergence of unregulated and unsupervised private drug treatment centres.

Feature 6. Lack of effective state monitoring & oversight

15. The examples collected in **Annex 3** also show that, in many countries, unregulated and informal drug 'rehabilitation' centres operating at the margins of legal frameworks are subject to little to no effective oversight.
16. The Committee Against Torture has made clear that states have an obligation to prevent, investigate, prosecute, and punish acts of torture committed by private actors,<sup>16</sup> and that they must 'establish impartial mechanisms for inspecting and visiting places of detention and confinement'<sup>17</sup>. It is also worth noting that, in its latest session held in April 2021, the UN Commission on Narcotic Drugs already encouraged Member States to ensure the 'effective supervision of drug treatment and rehabilitation facilities'.<sup>18</sup>

## **Addressing the Special Rapporteur's questionnaire**

17. Based on the empirical evidence gathered in the Annexes, we respectfully urge the Special Rapporteur to include the following recommendations in his forthcoming report. While these recommendations concern drug treatment centres, it is likely that similar findings will be made with regards to abuses taking place in other medical contexts where other marginalised populations, such as people with disabilities or people who experience ill mental health, are subject to involuntary treatment.

**Question 1. Practical challenges to accountability**

18. **Stigmatisation and criminalisation of people who use drugs.** To close the accountability gap for abuses committed in private drug treatment centres, public authorities must take action to tackle the social stigma and discrimination against historically pathologized, marginalised and criminalised populations, such as people who use drugs.

In that regard, it is essential that states put an end to the criminalisation of drug use and drug possession for personal use, as research<sup>19</sup> shows that criminalisation operates as a strong institutional barrier between people who use drugs and state services. Fear of criminalisation could deter people who use drugs from reporting human rights abuses and seeking accountability and redress for them.

19. **Compulsory treatment is conducive to torture.** Drug treatment centres where people are detained against their will and subject to compulsory treatment should be recognised as high-risk environments for torture and ill-treatment, as they place people who use drugs in a situation of powerlessness where they are under the total control of the centre<sup>20</sup>. In view of this, we respectfully urge the Special Rapporteur to recognise that involuntary drug treatment is in itself conducive to torture and ill-treatment and a challenge to accountability, and that states should take action to end it.

### **Question 2. Forms of accountability**

20. **Effective mechanisms to monitor drug treatment centres.** We respectfully urge the Special Rapporteur to recognise the need to establish clear regulatory frameworks for the authorisation, licensing, and monitoring of private health centres, particularly those that provide treatment to populations at risk of torture, such as private drug treatment centres. The adoption of these frameworks needs to be complemented with the creation of properly-funded impartial bodies to regularly visit and monitor these private centres. This recommendation would be in line with similar findings of this mandate on mental health centres<sup>21</sup>, and with the latest recommendations of the UN Commission on Narcotic Drugs<sup>22</sup>.
21. **Discrete and easily accessible low-threshold mechanisms for complaints and redress.** The Committee Against Torture has established that states have the obligation to create effective complaints mechanisms.<sup>23</sup> For people subject to criminalisation, stigma and marginalisation, it is essential that these mechanisms are low-threshold, tailored to the needs of each population, and that they can be accessed easily, discreetly, and anonymously.
22. **Public provision of evidence-based and rights-compliant services.** When it comes to torture and ill-treatment committed in private drug treatment centres, the most effective mechanism for prevention and accountability is to establish and appropriately fund public, affordable, and accessible evidence-based drug treatment, which serve as an alternative to private centres.

### **Question 3. Rights of victims**

23. **People who use drugs are a population at risk of torture and ill-treatment.** We respectfully urge the Special Rapporteur to recognise that people who use drugs are a group that, due to a long and ongoing history of pathologisation and marginalisation, is especially at risk of torture. As a consequence, authorities need to provide specific protection from torture and ill-treatment,<sup>24</sup> including by adopting affirmative measures to ensure access to redress.<sup>25</sup>
24. **Ensure the participation of people who use drugs in accountability mechanisms.** In addition to the individual right to redress, states must acknowledge the collective participation of people

who use drugs in measures aimed at achieving accountability for the abuses committed in the name of drug treatment. Authorities and policymakers should be encouraged to meaningfully consult with organisations of people who use drugs in the drafting of regulations concerning public and private drug treatment centres, and in the implementation of effective mechanisms of monitoring and oversight.

## ANNEXES

### Annex 1. Examples of torture and ill-treatment

- The **Bangladesh** press has recently published a significant number of reports of beatings and physical assaults in drug treatment centres, including a case in which a person had a towel tied to their mouth, and water poured in.<sup>26</sup>
- In **Brazil**, the National Preventative Mechanism and civil society have documented many instances of torture and ill-treatment, including tying residents onto beds and injecting them with tranquillisers; the refusal to provide sufficient food and nourishment, forcing patients to be naked, or attempts to ‘dehomosexualise’ LGBTQI+ people.<sup>27</sup>
- In **Guatemala**, the *Procuraduría de los Derechos Humanos* –the local NHRI– received in the last 10 years at least 26 complaints concerning torture and ill-treatment in rehabilitation centres, including for kidnapping, overcrowding and unsanitary conditions, and offering alcohol in exchange for sex.<sup>28</sup>
- In **India**, private ‘de-addiction centres’ have recently proliferated; some of them lack trained staff and proper infrastructure, giving rise to reports of torture under little to no government oversight.<sup>29</sup> In 2019, the directors of a private centre went missing after one death that revealed frequent assaults to maintain ‘discipline’.<sup>30</sup>
- In **Mexico**, physical violence and humiliation are also commonplace in the thousands of informal rehabilitation centres called ‘*anexos*’,<sup>31</sup> which regularly report deaths and abuse.<sup>32</sup> Women who have survived these centres also explain that they were subject to mental abuse, such as threats to be permanently separated from their children.<sup>33</sup>
- In **Nepal**,<sup>34</sup> where there are no state-run drug treatment centres, private ‘rehabilitation’ facilities are plagued by reports of solitary confinement, forced labour, flogging, beatings and other ill-treatment, to ‘discipline’ and ‘cure’ people who use drugs.

### Annex 2. Examples of the lack of public evidence-based drug treatment services

- According to the Department of Narcotics Control in **Bangladesh**, there are 355 drug treatment centres operating in the country, but only 4 are run by the government.<sup>35</sup>
- According to official data, **Mexican** authorities run 45 public residential treatment centres, a number that is dwarfed by the over 2,100 private treatment centres.<sup>36</sup>
- In **Guatemala**, public authorities have not set up any residential treatment centres, and there is only one out-patient centre in the whole country; as a consequence, in 2020 there were 95 registered private treatment centres, and an estimated 200 unregistered centres.<sup>37</sup>

- In **Nepal**, although there are an estimated 130,000 people who use drugs, 69% of whom engage in injecting drug use, the government has not set up any public facility for drug treatment.<sup>38</sup>
- In **Brazil**, the 2019 National Drug Policy is expected to channel more funds and resources to abstinence-based, religious-focused ‘therapeutic communities’,<sup>39</sup> where serious human rights abuses have been reported.<sup>40</sup>

### **Annex 3. Examples of the lack of oversight & monitoring mechanisms**

- In **Bangladesh**, the authorities introduced regulations that require all treatment centres to operate under license and with trained staff, and that would subject them to inspections. However, local civil society report that compliance is very low, and there is no information on how these regulations are enforced.<sup>41</sup>
- Instead of acting swiftly to end reported abuses, in June 2019 the **Brazilian** announced the dismantlement of the anti-torture National Preventative Mechanism, currently operating solely because the judiciary intervened.<sup>42</sup> No public policy has been put in place to monitor the situation in ‘therapeutic communities’.
- In **Guatemala**, the Vice-Minister for Public Health reacted to widespread reports of torture and ill-treatment in private centres by declaring that it was not ‘incumbent’ on their ministry to resolve them.<sup>43</sup>
- In **Mexico**, only 49.5% of the estimated 2,100 private drug treatment centres are officially registered, and out of those only 348 have been monitored or inspected.<sup>44</sup>
- After decades without regulation, in 2018 the government of **Nepal** released operational guidelines for drug rehabilitation, but so far no inspections or monitoring has taken place.<sup>45</sup>
- Authorities in **El Salvador** have created a ‘seal of good practices’ that is granted to treatment centres that follow international standards, but that is neither a certificate nor an authorisation – and treatment centres are allowed to operate without it.<sup>46</sup>

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## ENDNOTES

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