The New Drug Detoxification System in China: A Misused Tool for Drug Rehabilitation

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Abstract

Since 2008, China has established a new drug detoxification system to supersede the old mechanism that relied on administrative custodial measures for drug treatment. The new system introduces a three-tiered mechanism of voluntary, community and coercive drug detoxification, which aims at the physical, psychological and social aspects of drug-dependence treatment of addicts. However, although the new drug detoxification system seems to serve as a scientific and human-centered drug treatment tool, its practices appear to be rather different from the official rationales. Through three case studies in Guangzhou, Shanghai and Kunming, this article focuses on the legal deficiencies, theoretical inconsistencies and practical problems of this freshly-established system. This article also focuses on the uniqueness of the social conditions upon which the three detoxification programs are implemented. The article thus uncovers the genuine intention of the Chinese authorities in hastily introducing this system lies in the government’s endeavor to ensure the maintenance of social order and public safety. As such, the new drug detoxification system functions primarily as a risk-control measure, rather than a rehabilitative instrument, administering actuarial justice by identifying, classifying and managing drug addicts.
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I. INTRODUCTION

Drug abuse has become an increasing public health issue and social concern in the last decade in China. Although the Chinese government created a so-called “drug-free” nation by deploying nationwide anti-drug campaigns from the 1950s-1980s, drug abuse re-

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1 Clyde B. McCoy, H. Virginia McCoy, Shenghan Lai, Zhinuan Yu, Xue-ren Wang & Jie Meng, Reawakening the Dragon: Changing Patterns of Opiate Use in Asia, with Particular Emphasis on China’s Yunnan Province, 36 SUBSTANCE USE & MISUSE 49, 54 (2001); Ingo I. Michels, Min Zhao & Lin Lu, Drug Abuse and Its Treatment in China, 53 SUCHT - ZEITSCHRIFT FÜR WISSENSCHAFT UND
emerged and spread quickly following the initiation of the economic reforms in the late 1970s. Statistical studies show that the number of illicit drug users in China grew from 70,000 in 1990 to 1.14 million by the end of 2004, a rate of increase of over 100% per year. However the actual number remains undisclosed because many more drug users are underground and unregistered. Numerous physiological and sociological studies demonstrate that drug abuse causes many problems both to individuals and to societies, including transmission of contagious diseases, crime, deterioration of social order, loss of productivity and excessive health care expenditures.

In response to the worsening situation, a number of laws and regulations were promulgated by the Chinese government in the 1990s to address the wide spread of drug addiction and to reinvigorate the strategies of handling drug abusers. The codification produced a three-tiered drug detoxification system in which a range of administrative compulsory penalties were heavily relied on to deal with drug users. The official aims of this mechanism were to educate, rescue and reform drug addicts.

6 The three-level drug detoxification system consists of three administrative compulsory measures: public order detention (治安拘留), coercive drug rehabilitation (强制戒毒) and re-education through labor (劳动教养). Yao Jianlong, The Rethinking and Reconstruction of China’s Drug Detoxification System (对我国现行戒毒体系的反思与重构), 6 JUV. DELINQ. RES. (青少年违法犯罪犯罪研究) 8, 8-9 (2002).
However, in actuality, handling drug abusers under administrative custodial measures served punitive and deterrent functions, and seldom served as an effective tool in detoxifying and rehabilitating addicts.\(^7\) The failure of this detoxification system urged the Chinese government to reconsider the effectiveness of administrative detentions on addicted individuals who are physically and psychologically disordered.\(^8\)

Having been aware of the limitations of compulsory administrative measures on reducing drug use, the government, since the 2000s, has committed to moving away from previous conventional approaches and tended to adopt more scientific and effective detoxification programs. In this context, the first national anti-drug law, the Anti-Drug Law, was passed and implemented in 2008 to replace the obsolete drug regulations.\(^9\) As the first state legislation on narcotics control, the Anti-Drug Law covers a wide range of drug-related issues, from criminal penalties on drug trafficking to drug rehabilitation in the community.\(^10\) The highlight of this law is the introduction of a new detoxification system that underlines China’s changed attitudes toward drug use and abusers. By re-defining drug users as not only administrative offenders but also patients and victims who need medical and psychological assistance, the law reveals a “people-oriented” rhetoric and tends to reform the mechanism of drug treatment and rehabilitation in accordance with the human-centered principle.

Based on the Anti-Drug Law, China enacted a supplemental directive on June 26, 2011: the Drug Treatment Regulation.\(^11\) The

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\(^7\) For a detailed discussion on the punitive nature of administrative detentions, see Li Enshen, *Prisonization or Socialization? Social Factors Associated with Chinese Administrative Offenders*, 27 UCLA PAC. BASIN L.J., 213, 213 (2010).


\(^10\) *Id.*

\(^11\) Jiedu Tiaoli (戒毒条例) [Drug Treatment Regulation] (promulgated by the St. Council, June 22, 2011, effective July 10, 2011), available at
Regulation defines a clear leadership system, and a detailed working mechanism and corresponding social supporting system for drug detoxification.\textsuperscript{12} As the regulation was designated mainly to provide the legal grounds for the new detoxification system, it focuses on the elaboration of the operational guides of the newly-established detoxification models. Accordingly, a brand-new three-layered scheme that aims mainly at the psychological and social aspects of drug-dependence treatment has been established. The new system consists of three rehabilitation pathways, namely voluntary detoxification (自愿戒毒), community drug treatment (社区戒毒) and coercive isolated detoxification (强制隔离戒毒).

However, despite the legislative effort, it is questionable whether this new three-tiered scheme has had any marked impact on the restraint of drug abuse. This article focuses on the exploration of the real rationales of this drug detoxification system. It highlights the specific practices and rhetoric of each program to demonstrate their ineffectiveness in reducing drug addiction. In particular, this article argues that although China seems to construct a humane drug detoxification system centered on treatment and rehabilitation, its actual implementation enables this new mechanism to be employed as an effective tool for managing risk and controlling a socially dangerous population (drug addicts) for the sake of public safety.

II. DRUG DETOXIFICATION SYSTEM IN THE LEGISLATIVE CONTEXT

Having long existed as an unofficial drug treatment in the history of China’s narcotics control, voluntary detoxification was not formally acknowledged until the promulgation of the Anti-Drug Law in 2008. Article 36 of the new law explicitly states that drug users may voluntarily receive detoxification treatment at the licensed medical clinics.\textsuperscript{13} Furthermore, Article 9 of the Drug Treatment Regulation articulates that the government encourages drug addicts to voluntarily detoxify, and addicts may choose to receive voluntary detoxification programs at medical and therapeutic institutions.\textsuperscript{14} In addition, Article 10 sets out that

\textsuperscript{12} Id.
\textsuperscript{13} Anti-Drug Law, supra note 9, art. 36.
\textsuperscript{14} Drug Treatment Regulation, supra note 11, art. 9.
the medical and therapeutic institutions shall sign the voluntary detoxification agreement with addicts or their guardian agreeing on the detoxification methods, length of treatment and confidentiality of personal information of drug addicts. However, according to Article 12, the private information of addicts receiving methadone needs to be directly reported to and registered with the local public security institutions.

Introduced as a new form of detoxification program, community drug treatment is, in theory, established to help addicted individuals overcome drug addiction by relying on the use of social resources and community forces. Article 33 of the Anti-Drug Law articulates that the police may order drug addicts to receive community detoxification; the period of detoxification is three years. The actual detoxification work in the community is carried out by the sub-district administrative offices (城市街道办事处) and the people’s governments of towns and villages (乡镇人民政府). According to Article 34, their duties are to reach detoxification agreements with drug addicts and implement personalized therapeutic programs in light of each addict’s physical and mental conditions. During community detoxification, drug addicts are required to comply with the legal and rehabilitative policies set out in the agreement under the supervision of the relevant authorities. The implementing guidelines of community detoxification are detailed in the Drug Treatment Regulation. Article 18 of the Regulation provides that the infrastructural offices and staff in the neighborhood should provide the following to assist the detoxification of drug addicts: (1) knowledge of drug treatment; (2) education and persuasion; (3) occupational skill training, occupational guidance, aid for study, employment, and hospitalization; (4) other measures that help drug addicts detoxify.

15 Id. art. 10.
16 Id. art. 12.
18 Anti-Drug Law, supra note 9, art. 33.
19 Id. art. 34.
20 Id.
21 Id. art. 35.
22 Drug Treatment Regulation, supra note 11, art. 18.
Although community drug treatment is expected to form the bedrock of the new detoxification mechanism, the Anti-Drug Law specifies that the failure of drug detoxification in the community will trigger the imposition of coercive isolated detoxification—a new type of compulsory drug measure that combines coercive drug rehabilitation and re-education through labor.\textsuperscript{23} In addition, Article 38 of the Anti-Drug Law metes out that coercive isolated detoxification should not be imposed unless the addict is: (1) refusing to accept community detoxification; (2) using drugs during community detoxification; (3) seriously violating the community detoxification agreement; or (4) using drugs after community and coercive detoxification treatments.\textsuperscript{24} Article 25 of the Drug Treatment Regulation provides that the imposition of coercive isolated detoxification is solely at the discretion of the local police.\textsuperscript{25} The total length of coercive isolated detoxification is two years, during which time drug addicts will be first compulsorily treated at the police’s drug treatment centers for three to six months, and then transferred to the coercive drug detoxification institutions governed by the judicial administrative organs for continuing treatment.\textsuperscript{26}

To facilitate the post-detoxification recovery of drug addicts, the Anti-Drug Law prescribes community drug rehabilitation as the follow-up program after coercive isolated detoxification.\textsuperscript{27} Article 37 of the Drug Treatment Regulation stipulates that the powers that order coercive isolated detoxification may order drug addicts to receive community rehabilitation after their release for up to three years.\textsuperscript{28} Community rehabilitation, in turn, will be carried out by sub-district administrative offices and the people’s governments of towns and villages, who are responsible for psychological treatment and counseling, occupational skill training, and help with schooling, employment and medication.\textsuperscript{29} Article 38 of the Drug Treatment Regulation further states that those who are ordered to serve community rehabilitation will be sent to coercive isolated

\textsuperscript{23} See Anti-Drug Law, supra note 9, art. 38, 43. In the Chinese administrative detention system, coercive drug rehabilitation was used to target drug addicts and re-education through labor handled more serious and repeat minor offenders.

\textsuperscript{24} Anti-Drug Law, supra note 9, art. 38.

\textsuperscript{25} Drug Treatment Regulation, supra note 11, art. 25.

\textsuperscript{26} Drug Treatment Regulation, supra note 11, art. 27.

\textsuperscript{27} Id. art. 48.

\textsuperscript{28} Drug Treatment Regulation, supra note 11, art. 37; see also Anti-Drug Law, supra note 9, art. 48.

\textsuperscript{29} Drug Treatment Regulation, supra note 11, art. 39.
detoxification if they (1) refuse to accept community rehabilitation; or (2) breach the rehabilitation agreement; and (3) reuse and re-inject drugs during the rehabilitative process.\textsuperscript{30}

\section*{III. The New Drug Detoxification System: An Effective Tool for Drug Rehabilitation?}

It is true that the Chinese government seeks to construct and rely on a more caring and systematic drug detoxification system to comprehensively solve the worsening issue of drug addiction. Although legal justification and widespread propagation of this framework have enabled it to play an increasingly important role, the framework’s rationalization and efficacy remain largely uncertain. More precisely, the extent to which the new system is able to exert a more positive effect on the control of drug abuse is dubious given the current social conditions and community culture in contemporary China. A wide range of legal and social realities in the practice of detoxification programs indicate that the adoption of the new drug detoxification system is a rushed decision by the Chinese authorities, who have misjudged the strengths of social and legal forces upon which this mechanism can be effectively operated.

\subsection*{A. Addicts’ Misuse of Voluntary Detoxification}

As the most accessible and flexible drug-dependence program in the detoxification system, voluntary detoxification is expected to be the most popular detoxification measure for drug addicts to receive professional drug treatment. Addicts are encouraged to admit themselves to the detoxification institutions, and those who receive voluntary detoxification will not be administratively punished \textsuperscript{31} nor sent to community and coercive detoxification programs. During treatment in the medical clinics, the management of addicts is in the hands of professional medical staff, who view drug addicts as normal patients with physical and mental disorders rather than minor offenders whose behavior endangers the social order. It is these arrangements and processes that lead to the misuse of voluntary detoxification, hence creating a practical conflict with other detoxification models (as will be explained below).

\subsubsection*{i. 3.1.1. Legal Deficiencies of Voluntary Detoxification}

\textsuperscript{30} Id. art 38.
\textsuperscript{31} See id. art. 9.
The legal settings of voluntary detoxification allow this instrument to be used as a shelter for addicted individuals in an attempt to avoid the administrative penalties that may be otherwise imposed on them.\textsuperscript{32} Article 9 of the Drug Treatment Regulation states that those who have received voluntary detoxification shall not be punished by the public security organs.\textsuperscript{33} The purpose of this provision is to urge drug users to freely participate in voluntary detoxification without being fearful of arrest by the police. However, many drug addicts often use this as a justifiable protection to escape from legal punishments. For example, it is observed that the Chinese authorities are fond of launching a “Hard Strike” (严打) on offenders ahead of sensitive dates on the Chinese government’s calendar, such as the run-up to the Olympic Games in Beijing, to maintain social order and stability.\textsuperscript{34} Having been granted a waiver from many administrative punishments (mostly public order fines or detention), many pawky drug users frequently choose to register themselves with drug detoxification clinics in advance as a convenient means to circumvent the attention of the police. By staying in the clinics at these very moments, they are most likely able to avoid being caught by the police.\textsuperscript{35}

In addition to dodging potential administrative penalties, subscribing to a detoxification institution may also help drug abusers escape from drug treatment under community and coercive detoxification. Although the Anti-Drug Law and its regulation authorize the police to send drug addicts to community detoxification when they think fit, the law does not describe the medical and legal standards upon which addicts ought to be subjected to this neighborhood-based drug treatment. Nor does it clarify whether or not those who have already registered with or choose to go with voluntary detoxification should be assigned to community

\textsuperscript{33} \textit{Drug Treatment Regulation, supra} note 11, art. 9.
\textsuperscript{34} \textit{See HUMAN RIGHTS WATCH, WHERE DARKNESS KNOWS NO LIMITS: INCARCERATION, ILL-TREATMENT AND FORCED LABOR AS DRUG REHABILITATION IN CHINA} 12, 23 (Jan. 2010). Hard Strikes were also implemented in the days preceding the International Day against Drug Abuse and Illicit Trafficking and the 60th anniversary of the founding of the People’s Republic of China in October 2009. \textit{Id.}
\textsuperscript{35} Yao, \textit{supra} note 6, at 9.
detoxification. In fact, because community drug detoxification is not legally defined as a compulsory measure, its imposition by the police almost always lacks sufficient legitimate and reasonable grounds whereas voluntary detoxification is accessible to most addicted individuals. For example, although Article 33 of the Anti-Drug Law stipulates that the public security organs are empowered to send drug addicts to receive community detoxification, the law does not specify the level of the police institutions which are responsible and the legal procedure through which the police may impose this order.\(^\text{36}\)

Moreover, Article 38 of the Anti-Drug Law describes four conditions based upon which coercive isolated detoxification should be imposed.\(^\text{37}\) According to this provision, the law specifies the failure of community detoxification as the prerequisite of initiating coercive detoxification treatment. This means that the police are not supposed to place in coercive isolated detoxification those who have not yet undergone the programs under community detoxification.\(^\text{38}\) Whereas a transitional mechanism of community and coercive detoxification has been established, the operational relationship between voluntary and coercive detoxification remains legally unclear. Article 37 of the Anti-Drug Law and Article 12 of the Drug Treatment Regulation provide that voluntary detoxification institutions are obligated to report to the police regarding addicts’ personal information\(^\text{39}\) and their reuse of drugs during the therapeutic programs.\(^\text{40}\) However, while the recording of information may help the authorities identify the history of individuals’ drug use and the level of their addiction for future coercive treatment, the expected legal consequence of failing voluntary detoxification—triggering of coercive detoxification—is not prescribed in the law. It thus leads to a legal and practical vacuum between the enforcement of voluntary and coercive detoxification. In this context, many addicts repeatedly go to voluntary

\(^{36}\) Hu Peng, *The study on Community Detoxification Work from the Perspective of the Anti-Drug Law* (禁毒法视角下的社区戒毒工作研究), 6 JUV. DELINQ. RES. (青少年违法犯罪研究) 36, 37 (2008)

\(^{37}\) *Anti-Drug Law*, supra note 9, art. 38; see also *Drug Treatment Regulation*, supra note 11, art. 25.

\(^{38}\) But see *Drug Treatment Regulation*, supra note 11, art. 25 (noting exceptions for addicts suffering serious addiction, and those voluntarily accepting coercive isolated detoxification.).

\(^{39}\) *Drug Treatment Regulation*, supra note 11, art. 12 (requiring reporting of personal information for drug addicts registering for methadone treatment).

\(^{40}\) *Anti-Drug Law*, supra note 9, art. 37.
detoxification institutions not for seeking drug treatment, but mainly for the circumvention of potential custody in compulsory detention centers.41

ii. The Practice of Voluntary Detoxification

While legal uncertainties produce a twist to the original intent of voluntary detoxification, the practical effectiveness of this approach is more appalling. A spate of statistical reports illustrate that the relapse rate of drug addicts discharged from voluntary detoxification clinics is extremely high. For instance, a statistical study on drug relapse was undertaken in 1996 based on the data from fifteen voluntary detoxification clinics in Guangzhou.42 It observed that the recidivism rate of drug abusers was close to 100% after an ordinary fifteen-day period of treatment.43 Likewise, Guangdong authorities reported that of 373 drug addicts, 93.6% relapsed after completing their medical therapy at the clinics.44 A more clinically-researched survey in Wenzhou, Zhejiang Province, affirmed this disturbing finding of high relapse rates.45 It collected the relevant empirical information from 651 patients of drug addiction and discovered that drug relapses three days, one month, six months and one year were 21.79%, 52.36%, 93.50% and 97.89% respectively.46 To understand why the research outcomes were disappointing, a brief examination of the Guangzhou Baiyun Detoxification Center will shed some light on the general plight of voluntary detoxification in contemporary China.

Established by the Department of Public Health of Guangdong Province and Guangdong Anti-Drug Committee in the late 1990s, Guangzhou Baiyun Detoxification Center has exalted and implemented the “person-centered” and “people-are-correctable” principles in the exercise of drug treatment.47 Accordingly, twelve professional clinicians and psychological therapists seek to promote the self-growth and self-initiative of drug abusers, encouraging them to play an active role in the process of treatment and to shape a cooperative attitude towards the use of

41 Yao, supra note 6, at 41.
42 Id. at 8-9.
43 Id.
44 Id.
46 Id.
47 Zheng et al., supra note 322, at 107.
specialized programs.\textsuperscript{48} A course of treatment in the Baiyun Detoxification Center is fifteen days and may be repeated multiple times. The cost of treatment, however, is expensive. The average fee for a fifteen-day treatment is 13,400 RMB per person in 2010.\textsuperscript{49} Characterized as patients, hospitalized drug addicts are provided with a variety of detoxification measures targeting the roots of drug use as well as the pathological, psychological and personal characteristics of addicted individuals. The contrapuntal treatments are specific and wide-ranging, including Chinese herbal therapy, acupuncture and moxibustion therapy, musical therapy and brain-biofeedback therapy.\textsuperscript{50}

\textbf{Table 1: Guangzhou Baiyun Detoxification Center}\textsuperscript{51}

<table>
<thead>
<tr>
<th>The Characterization of Drug Abusers</th>
<th>Patients</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operational Philosophy</td>
<td>Person-Centered Principle</td>
</tr>
<tr>
<td>Target</td>
<td>Drug Abusers with Sound Financial Ability</td>
</tr>
<tr>
<td>Detoxification Measures</td>
<td>Chinese Herbal Detoxification/Psychological Counseling and Therapy/Physical Treatment/Fitness Rehabilitation/Random Family Visit</td>
</tr>
<tr>
<td>Treatment Period</td>
<td>15 Days/Course</td>
</tr>
<tr>
<td>Treatment Cost</td>
<td>10,000 RMB+/Course</td>
</tr>
</tbody>
</table>

Although the Baiyun Detoxification Center offers a comprehensive array of therapeutic programs, the actual practices have limited impact on the effectiveness of long-run detoxification.\textsuperscript{52} It has been widely evidenced that drug treatment is a lengthy and complicated

\textsuperscript{48} \textit{Id.}
\textsuperscript{49} \textit{Id.} at 109. This amount is approximately 2,000 USD.
\textsuperscript{50} Zheng et al., supra note 32, at 108; see also GUANGZHOU BAIYUN DETOXIFICATION CENTER (Mar. 4, 2014), http://www.byjd.com/ (providing detailed information of clinical therapies used in the center).
\textsuperscript{51} The table is modified by the author for clearer manifestation. Zheng et al., supra note 32, at 107.
\textsuperscript{52} See Zheng et al., supra note 32, at 109 (noting that relapse rates are still high).
process, comprising three necessary stages: (1) physical detoxification; (2) mental rehabilitation; and (3) social integration.\(^{53}\) While physical detoxification may be medically achieved within a short period, addicts’ mental rehabilitation and reintegration into society require several years to complete.\(^{54}\) Although the Baiyun Detoxification Center has designed a number of psychological rehabilitative programs and personalized correctional schemes for in-depth treatment, not every patient is able to receive such therapies after the first course of treatment.\(^{55}\) It is because the high-price of treatment impedes the willingness of most drug abusers from continuing their therapy in the facilities. For example, the average fee for one complete drug treatment therapy in Guangzhou is 13,400 RMB on a per capita basis.\(^{56}\) For a program that lasts only fifteen days as a general period, this rate of charge in essence places a heavy burden on those who have limited financial capability due to previous expenses on drug abuse.\(^{57}\)

The expensiveness of drug treatment in voluntary detoxification institutions is due largely to the lack of government funding.\(^{58}\) Although the Anti-Drug Law explicitly stipulates that the detoxification clinics should not be established for commercial purpose,\(^{59}\) most detoxification clinics in China are privately run, hence they must focus on profits in order to survive and develop their services.\(^{60}\) As there are no statutory stipulations on charging standards, drug abusers are normally required to

\(^{53}\) See Mo Guanyao & Gu Kefei, *The Situations Faced by Drug Detoxification Work in the Wake of the Promulgation of Anti-Drug Law* (禁毒法实施以来戒毒工作面临的境遇), 10 J. KUNMING U. SCL. & TECH. (昆明理工大学学报), no. 6, Dec. 2010, at 3 (noting that the new drug rehabilitation model focuses on physiological detoxification, physical and mental health rehabilitation, and social reintegration); see also HUMAN RIGHTS WATCH, supra note 34, at 3 (quoting the Office of China National Narcotics Control Commission).


\(^{55}\) See Zheng et al., supra note 32, at 109.

\(^{56}\) Id.

\(^{57}\) Id.


\(^{59}\) Anti-Drug Law, supra note 9, art. 36.

\(^{60}\) Zheng et al., supra note 32, at 109.
pay a large amount of fees for daily treatment and necessary accommodation and food. As a result, many addicts find it difficult to afford the entire therapeutic programs and have to choose the short-term medical therapy for only physical detoxification.\(^{61}\) More significantly, the emphasis on economic pursuit in general has negatively affected the internal operation of many detoxification clinics. It has been reported that some clinics allow financially-troubled drug users to quit therapeutic programs over the course of treatment in order to save the limited resources for prospective patients.\(^{62}\) Moreover, some ill-equipped institutions in the undeveloped areas even sell substitute drugs to patients as an underground resource of revenue and acquiesce in drug trades between patients in the institutions.\(^{63}\)

In actuality, due to the insufficiency of nursing facilities and medical resources, the overwhelming majority of detoxification clinics in China can only offer a therapeutic period ranging from seven days to three weeks.\(^{64}\) Unlike the Baiyun Detoxification Center that has gained great support from the local authorities on developing the follow-up programs, most clinics are unable to address the psychological, social and behavioral problems associated with addiction.\(^{65}\) While drug users are provided with only physical detoxification treatment, little psychosocial and after-care services are available in the detoxification institutions.\(^{66}\) In addition, a lack of skilled personnel is a major barrier to undertaking high-level psychological and socialization-related schemes. According to a survey conducted to assess attitudes, knowledge, and perceptions of Chinese doctors who worked with drug abusers in the detoxification facilities, only 16.6% were psychiatrists; the remaining physicians had very little experience or training in treatment of mental illness.\(^{67}\) Therefore, many


\(^{62}\) Zheng et al., supra note 32, at 109.

\(^{63}\) Du, supra note 61, at 393; Yao, supra note 6, at 9.


\(^{65}\) Michels et. al, supra note 1, at 231.

\(^{66}\) Id.

Chinese clinicians express concern that voluntary detoxification might allow drug addicts to temporarily eliminate their physical addiction, and yet is unable to exert any impact on subsequent rehabilitation to guarantee addict’s successful reentry into society.\(^68\)

The ineffectiveness of voluntary detoxification is also attributed to the loose and open management of drug users in the detoxification centers. In comparison with coercive detoxification centers that adopt the compulsory measures and stringent policies to enforce drug treatment, most voluntary detoxification clinics are unlikely to create an isolated and rigid environment for the safety and efficacy of the therapy. For instance, the Baiyun Detoxification Center employs a closed-off management system for the regulation of patients.\(^69\) The approaches include twenty-four-hour security surveillance, routine general checkup and disallowance of relatives’ entry into medical wards.\(^70\) Whilst these measures are implemented to make the facility more prison-like at the external level, the internal administration can barely impose coercive rules on drug users. The reasons are two-folded.

Legally, characterized as medical institutions, detoxification clinics are not afforded power to limit the freedom of drug addicts for the practice of detoxification programs. Pursuant to the Anti-Drug Law, the detoxification clinics may temporarily adopt restrictive and preventive measures only when there is a possibility of personal danger during the treatment.\(^71\) Likewise, the clinics have no discretion to take any compulsory or punitive actions on drug addicts for their reuse or injection of drugs, though reporting such matter to the public security organs is required.\(^72\) From the medical perspective, the new drug detoxification system re-conceptualizes drug addicts as patients suffering from physical and psychological problems.\(^73\)

\(^{68}\) See, e.g., Wang & Liu, supra note 58.

\(^{69}\) Zheng et al., supra note 32, at 108.

\(^{70}\) Id.

\(^{71}\) Anti-Drug Law, supra note 9, art. 37.

\(^{72}\) Id.

Therefore, while the clinical staff focuses on treatment to avoid the symptoms of physical withdrawal to drugs, they are less inclined to intervene in addicts’ personal lives or to restrict addict’s mobility in the clinics. For example, the patients in the Baiyun Detoxification Center are provided a rather relaxed environment and comfortable living surroundings. At the Center, each ward is furnished with a TV and computer and patients are not required to comply with standard daily schedules. Patients may act freely in the clinic without disturbance insofar as they follow the medical instructions. As such, many patients are often found watching TV and surfing the Internet on computers at night and having insomnia due to the disruption of their biological clock. It is not uncommon that some addicts in the institutions still have easy access to drug sources and continue to use drugs while being treated. The laissez-faire management style leads to the drug-induced behaviors being hardly addressed, let alone corrected. Addicted individuals are likely to maintain and even extend their unhealthy habits, thereby becoming unengaged with and resistant to the therapeutic programs.

B. Community Drug Detoxification: A People-Oriented Program?

In the new drug detoxification system, community drug treatment is perceived as the primary tool to help addicts eliminate drug addiction with full support from the state and society. The government is attempting to utilize community drug treatment as the effective measure to break down the “unbreakable cycle” of drug addicts struggling endlessly with addiction, incarceration, discrimination and hopelessness. In particular, community drug treatment seeks to target the high rate of recidivism as a result of traditional anti-drug means by maximizing addicts’ social capital and by mustering community support. However, despite these stated purposes, community drug treatment rarely serves as a neighborhood-

74 Zheng et al., supra note 15, at 108-09.
75 Id. at 109.
76 Id.
77 Wang & Liu, supra note 58, at 109.
78 The concept of an “unbreakable cycle” of drug addiction is recognized in a report by Human Rights Watch. See HUMAN RIGHTS WATCH, AN UNBREAKABLE CYCLE: DRUG DEPENDENCY TREATMENT, MANDATORY CONFINEMENT, AND HIV/AIDS IN CHINA’S GUANGXI PROVINCE 40, 42 (Dec. 2008).
based therapeutic and rehabilitative program. Rather, it is largely employed as a semi-coercive measure, imposing restrictions on addicts during their drug treatment process. Its practices are almost identical to law enforcement measures for certain criminal and administrative compulsory approaches in the Chinese justice system (as will be explained below).

i. The Coercive Nature of Community Detoxification

The coercive nature of community drug treatment is first reflected in the unlimited power of the public security organs (the police) in the practice of community detoxification. Akin to administrative detentions (e.g., re-education through labor) where the police are granted the discretionary latitude to handle administrative offenders in a speedy and simplified manner, the powers to (1) determine the nature of the “addiction,” (2) send addicts to community detoxification/rehabilitation and to (3) regulate them during the community-based treatments is concentrated in the hands of the police.81

Article 33 of the Anti-Drug Law and Article 13 of the Drug Treatment Regulation empower the police to send drug addicts to community detoxification for up to three years based on the results of addicts’ drug tests.82 It is true that the law purports to adopt the scientific evidence (drug tests) as the legal basis to impose community detoxification on addicted individuals.83 This raises the question whether the determining procedure can be performed in a legal and fair manner. Although Article 31 of the Anti-Drug Law prescribes that the methods on judging the severity of drug addiction in light of drug tests should be regulated by the Ministry of Public Health, the Departments of Drug

80 For detailed discussions of Chinese administrative detentions and their legal and social characteristics, see Randall Peerenboom, Out of the Pan and Into the Fire: Well-Intentioned but Misguided Recommendations to Eliminate All Forms of Administrative Detention in China, 98 NW. U. L. REV. 991, 991-1104 (2004); SARAH BIDDULPH, LEGAL REFORM AND ADMINISTRATIVE DETENTION POWERS IN CHINA (2007).
81 Anti-Drug Law, supra note 9, art. 32; Drug Treatment Regulation, supra note 11, art. 4.
82 Anti-Drug Law, supra note 9, art. 33; Drug Treatment Regulation, supra note 11, art. 13.
83 Anti-Drug Law, supra note 9, art. 32.
Administration, and the Departments of Public Security, it is unclear from the wording what these methods really are and what the medical standards to be followed are to identify drug addiction. In addition, neither the Anti-Drug Law nor the Drug Treatment Regulation involves other authorities, such as the medical professionals and judiciary, in the decision-making processes of both determining the drug addiction and imposing community detoxification. In essence, the police are the sole arbitrators to decide whether tested individuals are addicted to drugs and hence need to be sent to community detoxification, with little regard to clinical and judicial opinions.

The more problematic issue is that the police are able to freely exercise their far-reaching power during the actual implementation of community drug treatment. Indeed, the law provides that community detoxification programs should be carried out by social workers, security personnel, medical staff, family members of addicts and volunteers under the supervision of the sub-district administrative offices and the people’s governments of towns and villages. However, Article 4 of the Drug Treatment Regulation illuminates that: “the public security organs above the county level are responsible for the registration and dynamic management (动态控制) of drug addicts, are responsible for the management of the facilities of community drug treatment and are responsible for providing guidance and assistances of community rehabilitative work.”

This provision clearly indicates that even though the police are not engaged as the direct enforcer of community drug treatment, it is legitimate for them to intervene in the practical operation of this measure. For example, Article 35 of the Anti-Drug Law and Article 19 of the Drug Treatment Regulation stipulate that drug addicts should routinely undergo drug tests organized by the police over the course of detoxification activities. In addition, the police are solely authorized to handle the disciplinary issues of drug addicts raised during community drug treatment. Specifically, Article 35 of the Anti-Drug Law requires that social detoxification workers must report to the public security organs

84 Id. art. 31.
85 Drug Treatment Regulation, supra note 11, art. 17.
86 Id. art. 4.
87 Anti-Drug Law, supra note 9, art. 35; Drug Treatment Regulation, supra note 11, art. 19.
when (1) addicts re-use drugs during the treatments; and (2) addicts seriously violate the community detoxification agreement.\textsuperscript{88} Whereas the law provides no discretion for the concerned community to deal with addicts’ misconduct, Article 38 of the Anti-Drug Law empowers the police to immediately remand the wrongdoers to coercive isolated detoxification.\textsuperscript{89} Likewise, for those who do not comply with the requirements of community rehabilitation, Articles 25 and 38 of the Drug Treatment Regulation articulate that they should be returned to coercive detoxification centers without potential for early release.

More significantly, the completion of community drug treatment is subject to the approval of the police. Although the law provides a timeframe after which the imposition of community detoxification and rehabilitation should be removed, the official release of addicts is only effective upon the written announcement by the police.\textsuperscript{90} Ironically, though community drug treatment is defined as a medical and therapeutic program in law, the clinical conditions of addicts are ruled out as a deciding criterion for the police to make the release order. Rather, the police are only required to rely on the fact that addicts have successful fulfilled the mandated duration of community drug treatment in the assessment of the addicts’ eligibility of being released.\textsuperscript{91} This regulatory setting creates an incoherent legal vacuum that facilitates the continuation of the police’s abuse of their power in the handling of drug addicts. Article 38 of the Anti-Drug Law lays out that: “With respect to a person who is seriously addicted to narcotic drugs and is difficult to be cured of such addiction through treatment in the community, the public security organ may directly make a decision on his compulsory isolation for drug treatment.”\textsuperscript{92}

To abide with these stipulations, the police are given broad authority to subject released drug addicts to urine or other drug tests without a reasonable suspicion of their reuse of drugs.\textsuperscript{93} Those who fail a test are most likely detained instantly by the police for coercive isolated

\textsuperscript{88} Anti-Drug Law, supra note 9, art. 35.
\textsuperscript{89} Id. art. 38.
\textsuperscript{90} See Drug Treatment Regulation, supra note 11, art. 23, 40.
\textsuperscript{91} Drug Treatment Regulation, supra note 11, art. 23.
\textsuperscript{92} Anti-Drug Law, supra note 9, art. 38; see also Drug Treatment Regulation, supra note 11, art. 25 (containing a nearly identical provision).
\textsuperscript{93} See HUMAN RIGHTS WATCH, supra note 34, at 2-3, 13, 23-25.
In its report, Human Rights Watch interviewed a large number of current and past drug users and discovered that “people are frequently taken off the street and forced to do a urine test because they ‘look’ like drug users.” One of the drug users even claim that “[f]or the police, arresting drug users is a task that must be done to fill up the [drug detoxification] centers.” Whereas the police are provided the latitude to incarcerate drug re-users discharged from community-based drug treatment, the procedural and substantive requirements that ought to be obeyed to formulate the use of this power and restrain its misuse are not provided in law. It is argued that the current effectiveness of community drug treatment is rather disappointing, the majority of drug addicts are in actuality freed without the complete success of eradication of drug addiction. Therefore, it is not uncommon that many public security law enforcers are inclined to formulate the use of this power and restrain its misuse are not provided in law. It is argued that the current effectiveness of community drug treatment is rather disappointing, the majority of drug addicts are in actuality freed without the complete success of eradication of drug addiction. Therefore, it is not uncommon that many public security law enforcers are inclined to restore the old order of curing them in a compulsory and disciplinary manner. In doing so, the police are enabled to initiate a “streamlined system” in which they may, on the one hand, release unhealed addicts from community drug treatment, and on the other hand, arbitrarily remand them in coercive isolated detoxification for mandatory treatment without the due process.

In addition to the dominant and overpowering role of the police, the coercive character of community drug treatment is demonstrated by the deprivation of addicts’ liberty during the exercises of community drug detoxification. Community drug treatment is a program administered in the open neighborhood by the local administrative organs, indicating greater emphasis on the preservation of addicts’ social linkages. The actual practices, however, require addicted individuals to be subject to a variety of restrictive rules which literally control their mobility in the community.

To highlight the compulsoriness of community drug treatment, Article 14 of the Drug Treatment Regulation first states that: “Drug addicts must report to the sub-district administrative offices and the people’s governments of towns and villages within fifteen days of being

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94 See id. at 23-25.
95 Id. at 23.
96 Id.
97 Yao, supra note 6, at 40.
98 See HUMAN RIGHTS WATCH, supra note 34, at 13.
issued the notice on receiving community detoxification.” 99  Failure to report without the proper reasons is considered refusal of receiving community detoxification. 100

Similarly, Articles 37 and 38 of the Drug Treatment Regulation stipulates that drug addicts released from coercive isolated detoxification must report to the sub-distRICT administrative offices and the people’s governments of towns and villages within fifteen days of being issued the notice on receiving community rehabilitation and ought to sign the rehabilitation agreement. 101

While setting up a mandatory deadline for drug addicts to commence their community drug treatment, the legislation establishes a number of obligatory policies imposed on drug addicts in an attempt to ensure their confinement in the community. Article 19 of the Drug Treatment Regulation shows that in the process of detoxification programs, drug addicts should obey the following rules: (1) discharging community detoxification agreements; (2) periodically receiving medical tests upon the request of the police; (3) submitting written reports if leaving cities or towns where community detoxification is enforced for more than three days. 102

In light of these stipulations, many Chinese communities are keen to carry out community drug treatment in a way that follows the practices of some semi-coercive criminal and administrative measures. Residential surveillance (监视居住) and bail (取保候审) that are employed by the police to target minor criminal suspects in the pre-trial process serve largely as the operational models of community drug treatment. Unlike Arrest (逮捕) and Criminal Detention (拘留) where suspects are fully incarcerated to guarantee the smoothness of investigation and prosecution, residential surveillance and bail are compulsory measures with a lesser degree of coercion. 103 They are deployed to partially restrain

99 Drug Treatment Regulation, supra note 11, art. 14.
100 Id.
101 Drug Treatment Regulation, supra note 11, art. 37, 38.
102 Id. art 19.
suspects’ freedom; mainly to prevent the escape of minor offenders from criminal proceedings and interferences in the administration of criminal justice.\(^\text{104}\) Therefore, a limited scope of activity is usually designated for engaged suspects and a series of rules prohibiting their free mobility are imposed. For example, residential surveillance often requires the suspects’ mobility to be limited within a specific area—e.g., an appointed residential place.\(^\text{105}\) The purpose is to evaluate whether suspects have left their designated areas and ensure their conduct is appropriate in the context of their legal commitments.\(^\text{106}\) Similarly, suspects under bail are required to report to the responsible enforcement organs (police, procuratorates and courts) upon request,\(^\text{107}\) though security or guarantor is usually attached to ensure their compliance with the regulatory requirements.\(^\text{108}\)

The analogousness of legal prescriptions leads to similar practices between the above-mentioned criminal approaches and community detoxification. Although the compulsory reporting system is not in use in the operation of neighborhood-based drug treatment, drug abusers are in actuality subjected to frequent requests for drug tests by the police.\(^\text{109}\) It is observed that drug treatment communities usually carry out at least twenty-eight urine tests during the three-year detoxification treatment.\(^\text{110}\) While the first twelve are mandatorily undertaken in the first year, the remainder of the tests are randomly performed by the police in the second and third year respectively.\(^\text{111}\) During the first year of treatment, drug addicts are obligated to take urine tests every two months to assess their progress under community therapeutic programs.\(^\text{112}\) The interval between

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\(^{104}\) Ma Jinghua & Lu Feng, supra note 103, at 53; Song Yinhui & He Ting, supra note 103.

\(^{105}\) Ma Jinghua & Lu Feng, supra note 103, at 55.

\(^{106}\) Id.


\(^{108}\) Yinhui & Ting, supra note 103, at 109.


\(^{1010}\) Id.

\(^{1011}\) Id. at 34.

\(^{1012}\) Id.
two urine tests in the next two years is every three and six months respectively.\textsuperscript{113} Those who refuse to accept the test or intentionally delay it are forced to undergo urine tests by the public security organs, who may remand them to coercive isolated detoxification if the situations are severe.\textsuperscript{114} Meanwhile, drug addicts must routinely update their detoxification progress with the drug detoxification enforcers in the form of written reports. The reports are expected to comprise the detailed descriptions of addicts’ daily activities and their feedbacks on detoxification therapies. Moreover, as leaving the community entails the formal and express permission from the police, the unapproved leave of drug addicts may constitute a major breach of the drug treatment agreement and will be directly handled by the police. Article 20 of the Drug Treatment Regulation clearly illustrates that drug addicts are not allowed to leave the designated detoxification community without the authorities’ permission for more than three times or thirty days accumulatively.\textsuperscript{115} If addicts breach these rules, the police are empowered to exclusively decide the gravity of the breach and subject drug addicts to coercive isolated detoxification.\textsuperscript{116}

ii. Community Drug Detoxification: A Hasty Social Project?

Indeed, notwithstanding the fact that community drug treatment is employed as a semi-coercive measure, the establishment of this tool as a prioritized detoxification measure indicates China’s improved perception of drug addiction as a normal social phenomenon and its attempt to mobilize social forces to control it. However, despite its true nature, the actual implementation of this program gives rise to some fundamental problems. In particular, concerns are often raised that most Chinese communities have practical difficulties providing standardized and systematic drug detoxification/rehabilitation as stated in the laws. By examining the exercise of community drug treatment in Shanghai, one of the reportedly laudable models that is worthy of spreading in China, a better understanding of the general obstacles impeding community drug treatment from being a genuinely community-based correctional instrument in contemporary China may be gained.

\textsuperscript{113} Id.
\textsuperscript{114} Id.
\textsuperscript{115} Drug Treatment Regulation, supra note 11, art. 20.
\textsuperscript{116} Anti-Drug Law, supra note 9, art. 38.
Since 2003, Shanghai has begun to introduce the concept and principle of social work and to engage it in the action against drug addiction.\textsuperscript{117} The practice of community drug treatment in Shanghai is unique due to its distinctive institutional and enforcement settings. Above all, the principle of community drug treatment is interpreted as “the government directs, the community organization implements and the society participates.”\textsuperscript{118} Therefore, instead of straightforwardly enforcing drug detoxification/rehabilitation in the community, the Shanghai government has established a non-incorporated organization named Shanghai Self-determination Service Organization (上海自强服务总社) at the municipal level to carry out the administration of community drug treatment.\textsuperscript{119} Financed by the government, Shanghai Self-determination Service Organization is a semi-commercial body that has a considerable number of well-trained social workers who actively undertake drug detoxification/rehabilitation by offering their professional and specialized services.\textsuperscript{120} With their services being purchased by the government,\textsuperscript{121} social workers are assigned to take charge of daily regulation, guidance and assessment of community drug treatment in collaboration with different social and legal actors such as community police, legal officials and addicts’ relatives.\textsuperscript{122} Over time, three working models have been developed and often employed in practice:

1. Social Casework: Social workers take on the cases of individual drug addicts and provide them with advocacy, information and other related services. In this scheme, social

\textsuperscript{117} Fan Zhihai, Lu Wei & Yu Jinxi, \textit{The Primary Exploration of Community Detoxification/Rehabilitation Model—An Example of Social Anti-Drug Activities in Shanghai} (社区戒毒康复模式的初步探索—以上海禁毒社会工作为例), \textit{18 CHINESE J. DRUG DEPENDENCE} (中国药物依赖性杂志) 152, 152 (2009).
\textsuperscript{118} Id.
\textsuperscript{119} Id. at 153.
\textsuperscript{120} Xue Liyan et al., \textit{The Analysis on Drug Rehabilitation in the Community of Shanghai} (上海市社区戒毒康复现状分析), 11 (3) \textit{CHINESE J. DRUG ABUSE PREVENTION & TREATMENT} (中国药物滥用防治杂志) 155, 157 (2005).
\textsuperscript{121} In November 2003, the Shanghai government signed the “Agreement of Purchasing Government Services” with Shanghai Self-determination Service Organization. According the Agreement, the government purchased the services provided by social workers at the rate of 40,000RMB/person. Fan Zhihai, Lu Wei & Yu Jinxi, \textit{supra} note 117, at 153.
\textsuperscript{122} Xue Liyan et al., \textit{supra} note 120, at 157; Fan Zhihai, Lu Wei & Yu Jinxi, \textit{supra} note 117, at 153.
workers communicate with addicts in a face-to-face manner to help them solve living problems and reach mental detoxification and social integration by providing them financial assistance and spiritual support. Unlike other community-based correctional programs in China, social workers of drug treatment need to look for cases by themselves based on the information provided by the police. They ought to build a trusting relationship with the located addicts and begin to design the service plans to target the addicts’ personal problems. One social worker is expected to be in charge of fifty drug addicts (1:50) to seek those who need drug treatment help according to police-registered records.

2. Social Group Work: A group of drug addicts with similar backgrounds is macro-managed by social workers to achieve the goals of education and treatment through setting up group scenarios and active interaction by group members. The typical examples are the “peer education group” in Jing’an District, “female drug detoxification salon” in Jiading District, and “family reunion group” in Minhang District. Peer education group, for example, is freely organized and run by past and current drug abusers. Chaired usually by a successfully detoxified person, the group operates a variety of activities such as making speeches, playing games, telling stories, and sharing testimonies in order to strengthen the resoluteness of abusers to eradicate drug addiction. Given peer education group is defined as a self-help assembly, social workers normally play a passive role in the course of the running of the group while drug addicts have the discretion to plan the relevant programs.

3. Social Community Work: Social community work is considered the basis of and supplement to the abovementioned measures. It mainly refers to care by the community (社区照管), in which social workers take advantage of usable resources and capacity of the community to help addicts

123 Fan Zhihai, Lu Wei & Yu Jinxi, supra note 117, at 153-54.
124 Id. at 153.
125 Id. at 154.
126 Id. at 154.
access more easily to necessary social resources for the sake of drug detoxification. It is aimed to provide professional services on addicts’ psychological tutorials and social restoration, building the informal supportive social network for addicts’ reintegration.\textsuperscript{127}

An institutionalized streamlined process of implementing drug treatment in Shanghai can be summarized in the following flowchart.

\textsuperscript{127} \textit{Id.}
Figure 1: The Operational Process of Community Drug Treatment in Shanghai

This flowchart has been modified by the author for clearer manifestation. See Xue Liyan et al., supra note 120, at 156.
It is clear that Shanghai, on paper, has developed a systematic mechanism of exercising community drug treatment in the context of its particular social conditions. However, the actual practices manifest that Shanghai community drug treatment is neither an operative detoxification program, nor a successful community-based correctional scheme. To be specific, the community capacity and culture in contemporary China is barely able to bolster the proper and effective administration of this well-conceptualized system. Rather, a rushed transplant of community drug treatment, without a matching regulatory and ideological community environment, is likely to impede the effect of rehabilitating drug addicts both mentally and socially. A close examination of the plight of Shanghai practice may serve as a general demonstration of this argument.

a. The Limitedness of Social Resources

The Shanghai model tends to focus more on the annihilation of mental and social dependence of drug addicts, in the form of creating them a facilitating environment for detoxification by solving addicts’ individual problems.129 These problems are usually personal and concrete, including employment, study, residential status (户口), skill training, hospitalization and finance. This emphasis means that the Shanghai community has realized the importance of the social capital of drug addicts and that the increase of this social capital will make a positive impact on addicts’ drug detoxification.

Social capital has various definitions. But it is generally defined as resources existing in a social structure and relationships that facilitate social action.130 In the legal sphere, this theory was first applied by criminologists to analyze prison-released individuals’ recidivism issues.131

129 Xue Liyan et al., supra note 120, at 157.
130 David Knoke, Organizational Networks and Corporate Social Capital, in CORPORATE SOCIAL CAPITAL AND LIABILITY 17, 19 (Roger Th. A. J. Leenders & Shaul M. Gabbay eds., 1999).
In analytical models, two levels of social capital can be identified from explanations of the concept: the resources that exist in interpersonal relationships and the social resources that exist in a community in general. According to this categorization, having high levels of social capital results in many diverse outcomes. They include mentoring, job networking, marriage, and mutual support, which is associated with self-reliant economic development without the need for government interference. This theory can be applied to administrative offenders as well, especially drug addicts, in terms of the reduction of their drug use.

For example, factors such as the employment status and educational background of drug addicts correlates with the extent of their drug abuse. One study shows that the vast majority of surveyed drug abusers remain jobless for a lengthy period while they are abusing drugs. Furthermore, one can assume that lengthy unemployment makes their detoxification life vacuous and lonely. This confusing status discourages them from starting a normal life, which in turn tempts them to continue using drugs due the sense of boredom. Also, the educational status of offenders determines the likelihood of drug use. Different evaluations have shown an identical finding that in general most drug addicts in China are preliminary and middle school graduates. Prior to being addicted to narcotics, many addicts were never educated with respect to the dangerousness of drugs, nor have they been guided to learn how to avoid possible drug interactions.

To strengthen the relevant social capital of drug addicts has thus been the main task of social casework in the Shanghai community. This type of working method requires social workers to accomplish a seven-step process to help addicts detoxify: (1) looking for cases; (2)
categorizing targets; (3) building trust relationships; (4) mobilizing community resources to solve targets’ practical problems; (5) employing different social work models in light of targets’ characteristics; (6) exploring professional measures of detoxification and rehabilitation; and (7) completion of cases. Of these seven steps, assisting addicts to solve practical problems is considered vital to gain trust from addicts, hence allowing addicts to concentrate on drug treatment without being distracted. However, although social workers are defined as non-governmental personnel who provide addicts care, help, guidance, and consultation, many social workers express concern that many required tasks are beyond their capability and authority, which is largely unable to satisfy the needs of addicts to improve their living situations.

Yuan Zhen, one of the social workers in Pudong District, conceded during a newspaper interview that in most occasions, social workers are unable to secure employment or study opportunities for addicts due to their vulnerable stature in mobilizing and distributing community recourse. According to her, social workers’ efforts to find a job for addicts or help them learn a new skill is often compromised by the uncooperative attitude of employers and schools. She further pointed out that social workers in fact play a minimal role in helping addicts with their practical difficulties without the support of relevant governmental agencies.

This dilemma is reaffirmed by the experience of Wang Ping, who has long been working as an anti-drug social worker in Jin’an District. She said she once went to an automobile repair shop that advertised it was looking for mechanics. She talked to the manager about the possibility of hiring one of the drug addicts and offered him a cigarette. After half an hour of conversation, he refused to provide this job opportunity and she

138 Id.
140 Id.
141 Id.
overheard him say, “I don’t dare to smoke her cigarette, she’s with drug addicts all the time!”

Accordingly, Zhang Li, one of the social worker experts in Shanghai, concluded that unlike the old times when employers could be persuaded to offer positions for drug addicts, it is now nearly impossible for social workers to carry on employment placement service in the context of marketization. During the earlier period of reform China (1980s-1990s), the social control system that aimed at rehabilitation and education of offenders enabled the society to “assist[] criminals and delinquents in their return to normal life by helping them to get jobs or schooling”. However, with China becoming more money-oriented aspiring to “material betterment” in the recent decades, employers are less willing to provide jobs to addicts who do not possess required skills and experience in work because the pursuit of economic profits has now become the core culture of modern entrepreneurs.

However, while a small number of experienced social workers discern the significance of solving addicts’ practical problems for the ultimate purpose of drug detoxification, the majority of social workers are unfamiliar, if not incompetent, with the current operational models. The sources of Shanghai social workers are diverse, comprised mainly of three groups: people from society, police departments and prisons. While those recruited from society are prone to absorb novel concepts and rationales of social work in their practices because of their professional and educational backgrounds, social workers drafted from retired police officers and prison personnel are more inclined to continue using their

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142 Shanghai Has Lost 15% of Its Anti-Drug Social Workers over One Year (关注“6·26”国际禁毒日 上海禁毒社工一年流失15%) SHANGHAI NEWS (June 24, 2005), http://www.shanghai.gov.cn/shanghai/node2314/node2315/node4411/userobject21ai109159.html.
143 Zhang Li, Constructing a Community Rehabilitation System with the Principle of Social Work for Drug Addicts—The Thinking of Drug Detoxification in Shanghai (构建吸毒人员的社区康复社会工作体系——对上海市禁毒工作经验的思考), 1 ISSUES JUV. CRIMES & DELINQ. (青少年犯罪问题) 60, 63 (2008).
146 Fan & Lu, supra note 137, at 388.
familiar management languages and measures on drug addicts in the community.\footnote{Fan Zhihai, Lu Wei & Yu Jinxi, supra note 117, at 75.} As they are accustomed to managing in a way that focuses on the objectives of retribution and control, it is understandable that these groups of social workers have struggled to quickly adjust their role from administrators to service providers in line with the central guideline of community drug treatment. Not surprisingly, some former police officers still retain their concept of drug addicts as administrative offenders that pose a threat to the safety of society, hence treating them in a rough and commanding manner instead of creating a positive environment for drug detoxification.\footnote{See Zhang, supra note 79, at 64.}

b. Social Denial and Discrimination

Another salient obstacle of implementing community drug treatment lies in the rejection, discrimination, and fear of the general public against socially and morally harmful behaviors. In contemporary China, the public attitude towards drug use is discriminatory and hostile. For example, some analysts believe that “[d]rug abusers are often deserted by their families and friends. Even after ending their drug use, they are still rejected and looked down upon by the community: a situation that might lead to relapse.”\footnote{Yu-xia Fang, Yan-bo Wang, Jie Shi, Zhi-min Liu & Lin Lu, Recent Trends in Drug Abuse in China, 27 ACTA PHARMACOLOGICA SINICA 140, 143 (2006).}

Abusing drugs, from the perspective of the public, is an unethical form of behavior that contradicts social values and morality. Rather than gaining sympathy, drug addicts more frequently face great hostility from the community and even their own families and friends.\footnote{Zhang Li, supra note 143, at 65.} A research survey was conducted in 2006 to observe the general attitude of Shanghai community residents towards drug addicts. The statistics collected from 9,400 people show that more than 98% of residents are aware of the dangerousness and addiction of drugs.\footnote{Complex Attitudes of Shanghai Residents towards Drug Users, 30% Sympathetic and 40% Discriminatory (上海市民对吸毒者态度复杂 四成人同情三成歧视), YOUTH DAILY (青年报) (June 26, 2006), http://news.sohu.com/20060626/n243929799.shtml.} Among these interviewed residents, 32% despise drug addicts and 13% are fearful of drug addicts.\footnote{Id.}
This phenomenon is not unique in China. One study conducted in Gansu Province shows 92% of residents feel very unsafe around drug addicts and are unwilling to make contact with them due to the fear of potential risk of contracting HIV/AIDS-related illnesses. The Gansu-based study reveals that almost 100% of community residents are reluctant to build deep and long-term relationships with drug abusers, such as loaning them money, creating romantic relationships, or getting married to them.

Clearly, social denial and discrimination contributes greatly to the ineffectiveness of community drug treatment in the Chinese society. Social worker in the Shanghai communities often encounters a great deal of resistance from addicts while offering help. Drug addicts are usually unwilling or worried to accept social workers’ assistance due to their fear of being exposed as drug users, thus feeling publicly stigmatized through direct discrimination. Also, many families show skeptical and unfriendly attitudes toward social workers and their requests for cooperation. This is in part because most families have long abandoned drug addicts due to intolerance of their behavior; but mainly other family members are afraid of being involved in the matter of drug abuse, hence tarnishing the families’ reputation. For example, Qi Linde, the head of the social worker station in Shanggang Sub-district, Pudong District (Shanghai), said that drug addicts tend to be distant with social workers in order to keep their privacy. They usually leave their houses very early and come back very late to avoid contact with social workers. Qi stated it is pretty common that social workers have to pay seven or eight visits to see their targets just once. In order to understand their habits, Qi said, social workers have to constantly visit their street committees and neighbors to acquire relevant information.

Yuan Zheng, one of Qi’s colleagues, has had her offer of help...
refused multiple times by addicts He said:

Once I went to one addict’s house and asked him what he had been doing. The simply told me that he went out for work. I knew that person did not have a job at the moment. Eventually, I found out that at that day the addict stole his mother’s money to purchase drugs. They never tell you the truth!161

C. Coercive Isolated Detoxification: A Punitive Instrument for Drug Abusers

When voluntary and community detoxification fail their purposes, coercive isolated detoxification becomes the last resort in the new drug detoxification system. This compulsory program aims mainly at those who are: (1) drug addicts refusing to receive community detoxification; (2) addicts re-using drugs during the community treatments; (3) addicts seriously violating the community detoxification agreement; and (4) addicts re-using or re-injecting drugs after community and coercive detoxification.162

The Chinese government uses coercive isolated detoxification as a replacement for coercive drug rehabilitation and re-education through labor. By incorporating their practical characteristics, coercive isolated detoxification serves as a new coercive drug treatment approach. Although the legal nature of coercive isolated detoxification remains unclear, many legal scholars are likely to characterize it as a newly-formed administrative detention due to its inheritance of practices from coercive drug rehabilitation and re-education through labor.163 To regulate the implementation of coercive drug treatment in the detoxification centers, the Bureau of Public Security and Bureau of Justice enacted the Regulation on the Management of Coercive Isolated Detoxification Centers by the Police (hereinafter the Regulation on Police) and the Regulation on the Work of Coercive Isolated Detoxification by the Judicial Administrative Organs (hereinafter the Regulation on Judicial Administrative Organs) in 2011 and 2013 respectively. The regulations expressly illustrate the chief aims and purposes of coercive isolated detoxification by providing that the practice of coercive detoxification

161 Id.
162 Anti-Drug Law, supra note 9, art. 38.
163 Xu Dadong, Zhang Pengpeng & Zhu Chenge, supra note 8, at 405.
should be human-centered on the basis of scientific detoxification, comprehensive treatment and should help to educate and rescue drug addicts. However, while coercive isolated detoxification is theoretically concerned with rehabilitating drug addicts through clinical treatment and mental healing, its general management and daily practice reveal that this instrument is in essence punitively conditioned, functioning mainly as a harsh sanction of imprisonment as opposed to a therapeutic program.

iii. The Prison-like Management of Coercive Detoxification Centers

Both the Regulation on Police and the Regulation on Judicial Administrative Organs specify that coercive detoxification centers are managed in an isolated and stringent manner. More specifically, the regulation of the centers share a considerable affinity with that of the prisons in China. The operation of the detoxification centers, according to Article 17 of the Regulation on Judicial Administrative Organs, is in the hands of the police, who cannot be replaced by any other law enforcement institutions or groups. The handling of addicts in the detoxification centers follows the way in which inmates are regulated in prison. Article 16 of the Regulation on Judicial Administrative Organs stipulates that drug addicts should be dealt with differently in light of their age, sex and level of addiction. Mail and packages sent to detained addicts are strictly checked in case of illegal items and drugs. Drug addicts are not allowed to have mobile phones or other communication devices. Visitors are rigorously examined and limited to only addicts’ families and staff from their previous working units or schools.

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166 Regulation on the Judicial Administrative Organs, supra note 164, art. 16.
167 Id. art. 20.
168 Id. art. 21.
169 Id. art. 22.
are not permitted to apply for short leave unless their spouses or family members are critically ill, there is a death in their family, or their families are going through significant changes. The above-mentioned situations however require formal proof from hospitals and public security organs of addicts’ residential localities, and the grant of application is solely decided by the police of detoxification centers.

Akin to the sanctioning of inmates in prison, the breach of detoxification rules by addicts is internally punished by the police in the detoxification centers. Article 28 of the Regulation on Judicial Administrative Organs provides that the police have the discretionary power to remand addicts under special management (单独管理) if they (1) seriously disturb the order in the centers; (2) secretly possess, use or inject drugs; (3) plot or commit escape, suicide, self-injury or physical assault; or (4) commit a crime that ought to be handled by the judicial institutions. Special management can last as long as 25 days, and can be called under emergency circumstances without approval by the chief of the detoxification centers.

The punitive nature of coercive isolated detoxification is also reflected in the detoxification process. During the drug treatment, addicts are mandated to receive the individualized therapies and training for their biological, physical and mental rehabilitation (as discussed throughout this article). However, the Anti-Drug Law allows the detoxification institutions to arrange certain amounts of labor work for addicts as part of the rehabilitative program. As such, both the Regulation on Police and the Regulation on Judicial Administrative Organs empower the police to organize productive labor of addicts in accordance with the needs of the detoxification centers. This practice bears a great similarity with the rationale of Reform through Labor (劳改) in the Chinese prison system.

170 Id. art. 24.
171 Id.
172 Id. art 28.
173 Id.
174 Anti-Drug Law, supra note 9, art. 43.
175 Regulation on Judicial Administrative Organs, supra note 164, art. 43; Regulation on Police, supra note 165, art. 59.
176 For comprehensive accounts of ideology and practice of “Reform through Labor” in the Chinese Prison System, see Jonathan Cowen, One Nation’s “Gulag” is Another Nation’s “Factory within An Fence”: Prison-Labour in the
Since the establishment of the penal system in 1950s, the Chinese authorities have believed that through manual labor, offenders “can gradually establish a sense of self-reliance through work, learn necessary skills to become productive citizens after leaving prison, and forsake the selfish, parasitic habit of reaping without sowing.” This perception has developed China’s far-reaching rhetoric of using productive labor as a primary means to correct and remold offenders during imprisonment.

Many Chinese legal and medical experts view labor work as essential to facilitate drug rehabilitation. Liu Zhimin, a clinical professional from Peking University, asserts that exercising drug rehabilitation through labor may effectively serve the following purposes for addicts: (1) reinforce their physical detoxification and prepare for mental rehabilitation, and (2) acquire a certain level of capacity to work for their smooth reintegration into society. More significantly, Liu suggests that organized labor work by addicts can produce economic gains for coercive detoxification centers for their accommodation and treatment of drug abusers.

As can be seen from above, Chinese authorities have treated drug addicts the same way as they have treated other criminals, namely by demanding forced labor as a means to make inspire change or retribution. There is little doubt that by assigning drug addicts labor work under coercive detoxification, the Chinese authorities reveal their true attitude toward drug addicts. Namely, Chinese authorities still regard addicts as delinquents needing to be confined and punished in a coercive fashion as opposed to addicted patients.

The prison-style management of coercive detoxification can be exemplified by the study on the operation of the Kunming (Yunnan People’s Republic of China and the United States of America, 12 Pac. Basin L.J. 190, 190-236 (1993).


179 Id.
Province) detoxification center. As the first police-regulated coercive detoxification institution in China, Kunming detoxification center has been heralded as the most advanced and well-run organization for coercive drug treatment.\textsuperscript{180} Its methods, which have been widely spread across the country, cover four prominent working models:

1. The establishment of the first base for rehabilitative labor. The base is self-industrialized and self-sufficient through the organization of labor work by addicts. The aims are to make financial profits, reduce monetary burden and maintain the daily running of the center.

2. The construction of an occupational training center. The center teaches drug addicts labor techniques to better conduct productive work in the institution and prepare them for reintegration of society upon release.

3. The employment of an information management system. The center designs a computerized information-collection mechanism where the personal files of treated addicts are stored up for individualized treatment and policing.\textsuperscript{181}

Apparently, although the Kunming coercive detoxification center is renowned for its marked impact on helping addicts eradicate drug dependence,\textsuperscript{182} its practice appears to be similar to that of older forms of punishment, i.e. pursuing the purposes of retribution and crime control. Among the aforementioned models, labor work of addicts is particularly highlighted to serve as an important component of treatment. Justified as an educational opportunity, addicts in the Kunming center are required to learn skills and undertake work on the daily basis.\textsuperscript{183} However, the extent to which the arrangement of productive work is justified on the ground of rehabilitative aims remains questionable. Given that the Kunming center has developed a comprehensive industrial chain comprised of planting,

\begin{footnotesize}
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\item See Wang Jianwei, \textit{The Existing Problems and Resolutions of Coercive Isolated Detoxification in Contemporary China—Kunming City as an Example} (当前强制隔离戒毒存在的问题及对策—以昆明市为例), \textit{3 J. YUNNAN POLICE OFFICER ACAD.} (云南警官学院学报) 47, 47 (2010).
\item \textit{Id.} at 47-48.
\item \textit{Id.} at 47.
\item \textit{Id.}
\end{enumerate}
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breeding, manufacturing and selling agricultural goods, seeking financial profits has become one of the primary goals for the institution to reduce government expenses and ensure sustainable development. As such, addicts are in essence deployed and organized as the labor force to carry out the production process.

A research survey on the problems and challenges faced by the Kunming center illustrates that most drug addicts are unsatisfied with labor intensity and effectiveness of rehabilitative programs. The statistics show that more than 40% of addicts are unhappy about the overuse of labor work in the treatment process. While more than 25% of addicts complain about the way occupational training is assumed and the condition of psychological rehabilitation, more than 20% of addicts are discontent with the management style in the institution. Drug addicts are often concerned that long-term incarceration in a prison-like environment will insulate them from the rapid social changes, making it difficult for them to keep up with and reintegrate into mainstream society. Due to the over-emphasis on labor, addicts are worried that their physical and mental disorders are in fact not properly treated, which often leads to more abusive behaviors among addicts and all sorts of relevant diseases across the institution.

IV. THE NEW DRUG DETOXIFICATION SYSTEM: A PRACTICE OF ACTUARIAL JUSTICE?

The new drug detoxification system is not a well-regulated mechanism with solid legal and theoretical basis. Nor is it a properly institutionalized system that constitutes an efficient and convenient instrument to control and reduce drug abuse. A crooked regulatory framework, a source-limited society and a long-standing penal discourse focusing on retribution (especially through the imposition of labor requirements) all contribute to the impracticality of this freshly-established system. This thus raises a question as to why the Chinese government is so eager to put forth the new drug detoxification

184 Id.
185 Id.
186 Id. at 49.
187 Id.
188 Id. at 48.
189 Id.
mechanism at this very inopportune moment. On the surface, the fierce accusations against the old drug detoxification measures (coercive drug rehabilitation and re-education through labor) regarding their unreasonableness and ineffectiveness have boosted the advocacy of establishing a more scientific system for drug treatment. China claims to employ a “human-centered” system to shift the focus on handling drug addicts from incarcerative punishment to medical treatment. However, the underlying reason is China’s endeavor to maintain social order and safety in the context of the Government’s priority of constructing a “harmonious society” since the mid-2000s. In practice, the new drug detoxification system is deployed as an effective means to control risk and prevent crime by identifying, managing and organizing drug addicts.

In the 1990s, Malcolm Feeley and Jonathan Simon developed a sociological theory to focus on the new functions of penological practices which are performed in contemporary Western societies. According to Feeley and Simon, this “new penology,” referred to as “actuarial justice,” which began to emerge in the late 20th century, “is concerned with techniques for identifying, classifying and managing groups assorted by levels of dangerousness.” As such, they attribute the emergence of this perspective to the most relevant factor: the advent of a concern for managing risks. In comparison with the old penology, the new approach “seeks to sort and classify, to separate the less from the more dangerous,” to regulate groups as part of a strategy of managing danger, and “to deploy control strategies rationally” for serving “actuarial justice.” Therefore, a number of criminal justice practices are largely carried out to serve the

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190 In the early 2000s, Hu Jintao, the former Chinese president, introduced a concept of “Harmonious Society” as a vision for the country’s future social development. Kin-man Chan, Harmonious Society, in INTERNATIONAL ENCYCLOPEDIA OF CIVIL SOCIETY 821 (Helmut K. Anheier et al. eds. 2010). Hu’s perception of a socialist harmonious society is a society that is “democratic and ruled by law, fair and just, trustworthy and fraternal, full of vitality, stable and orderly, and maintains harmony between man and nature.” Id. (internal quotations omitted).
192 Id. at 450.
193 Id. at 452, 455-56.
new ideology of actuarial justice. These techniques, for example, include the increased use of “incapacitation, preventive detention and drug test.” According to Feeley and Simon, these strategies are aimed largely at rearranging the distribution of offenders in society by identifying high-risk offenders and maintaining long-term control over them.

The actual implementation of China’s new drug detoxification system, though theorized by different legal and political discourses, mirrors these actuarial concerns. Their practices of three drug treatment programs in essence embrace increased reliance on imprisonment and merge concerns for surveillance and custody. Their characteristics bear a strong resemblance to the characteristics of actuarial justice, which reveals the true nature of this new system as a managerial approach as opposed to a drug treatment tool. More specifically, voluntary, community and coercive programs of drug treatment are aimed to target varying degrees of drug addicts, i.e. lesser risk individuals are allowed to voluntarily opt-in while riskier individuals are put in detention. The development and employment of this three-tiered system represent the authorities’ imposition of actuarial justice on addicts by treating them differently according to different levels of risk they are likely to pose. The following comparative accounts provide the manifestation of their ideological and practical parallels.

A. Drug Abuse is Normal

The emergence of actuarial justice occurred when Western society perceived crime as an inevitable social fact. By acknowledging that it cannot be eliminated, the democratic states shifted focus to preventing crime and minimizing its consequences. Similarly, since the resurgence of illicit drugs in the late 1970s, the Chinese government has witnessed a significant rise of drug abuse and gradually recognized it as a persistent

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194 Actuarial justice seeks to reduce the number and severity of crimes. The target of this “new penology” shifts from the discipline of individual bodies, to the control of whole categories of presumptively high-risk individuals through incapacitative custody. See id. at 458, 466.

195 See Feeley & Simon, supra note 191, at 457-458, 460.

196 Id. at 458.

197 See Feeley & Simon, supra note 191, at 455 (describing the new penology as taking crime for granted and accepting deviance as normal).
problem in the process of social transformation.\textsuperscript{198} Having experienced the failure of using coercive measures in drug dependence treatment, the state now constructs and relies on a rehabilitation-based and reintegration-oriented drug detoxification system to control and reduce drug abuse in lieu of exterminating it.

\textbf{B. Drug Addicts are Risk Objects}

Actuarial justice reconstructs offenders as risk objects based on the concept of risk. It places special emphasis on identifying and managing unruly groups for the sake of public safety.\textsuperscript{199} From the late 1970s onwards, China has characterized drug use and addiction as unlawful behavior, causing enormous social impact.\textsuperscript{200} Related crimes (such as smuggling and the drug trade in general) have drawn the authorities’ attention to the harm drug abuse causes to the state. Although the official rationale of the new detoxification system re-conceptualizes drug abuse as a medical disease, the new practices are markedly less concerned with diagnosis, treatment and rehabilitation of drug addicts. Rather, they are more concerned with techniques to identify, classify, manage and incapacitate addicts sorted by their level of addiction and dangerousness. In other words, while the Government claims that the program is supposed to treat the illness of drug addiction, in fact, they are more concerned with maintaining social stability through intense management of addicted individuals.

For example, in the new detoxification system, the addicts’ personal profiles are collected to assess the level of dangerousness addicts may represent, hence deciding the imposition of the suitable detoxification program on individuals. The government urges drug abusers to go to voluntary treatment in exchange for a waiver of administrative punishment. As the least coercive drug-dependence program, voluntary detoxification requires addicts to provide their personal information, which then are transferred from the medical clinics to the police for registration.\textsuperscript{201} This

\textsuperscript{199} Feely & Simon, supra note 191, at 455.
\textsuperscript{200} BIDDULPH, supra note 80, at 177.
\textsuperscript{201} Drug Treatment Regulation, supra note 11, sec. 12.
recording system provides the local security organs first-hand information of drug addicts who currently reside in their jurisdictions.

The grasp of addicts’ information allows the police to target drug addicts as the risk that may endanger social order and stability. Evidence shows that many addicts are arbitrarily sent to community or coercive drug treatment while still receiving treatment in voluntary clinics.\textsuperscript{202} Some even reported their experiences of being unreasonably stopped for checks and investigations as their personal identities are under police’s strict surveillance.\textsuperscript{203} It is not surprising that the police now are more concerned about the potential threat that may be exerted by freely mobile addicts in the context of building a “harmonious society”. This is particularly reflected by the times when the important social or political events are approaching, the police are more frequently arresting drug addicts who are accessing voluntary clinics to meet “arrest quota target”.\textsuperscript{204} To this end, sending drug addicts to either community detoxification (semi-coercive measure) or coercive detoxification (incarcerative punishment) is an efficient means to control the perceived risk by segregating drug addicts from the society.

C. Managerialism rather than Providing a Cure

Consistent with actuarial justice, transforming offenders into law-abiding citizens through treatment or correctional interventions is no longer at the heart of the criminal justice system.\textsuperscript{205} The objective shifts to managing the risks that offenders present. Accordingly, a number of new techniques are employed to serve the identification, classification and organization of offenders. Among the new penological forms, selective incapacitation, according to Feely and Simon, intensifies the aggregate effects on crime reduction.\textsuperscript{206} Selective incapacitation “proposes a sentencing scheme in which lengths of sentence depend not upon the nature of the criminal offence or the character of the offender, but upon

\footnotesize{\textsuperscript{202} Human Rights Watch, supra note 34, at 23.}
\footnotesize{\textsuperscript{203} Id. at 12.}
\footnotesize{\textsuperscript{204} Id.}
\footnotesize{\textsuperscript{205} See Feeley & Simon, supra note 191, at 455.}
\footnotesize{\textsuperscript{206} Id. at 458.}
risk profiles. Its aims are to impose long-term control over high-risk offenders “while investing in shorter terms and less intrusive control over lower risk offenders.”

These rationales constitute the theoretical basis upon which the new drug detoxification system is practiced. While voluntary detoxification functions as a generalized drug treatment instrument open to all addicts, imposing the least coercive measures, community and coercive detoxification serve as mechanisms to maintain control, often through frequent drug testing and custody. In practice, community detoxification is imposed on addicted individuals whose level of addiction and dangerousness is relatively low.

As discussed above, community detoxification is a semi-coercive measure with addicts being controlled in terms of their mobility and activities. Specifically, the frequent drug tests require addicts to be present in designated locations on the regular basis. Meanwhile, the submission of weekly written reports provides the police a channel through which addicts’ daily action can be closely monitored. In Shanghai, every fifty addicts in the community are assigned to an anti-drug social worker, who is responsible for arranging addicts’ drug treatment and social and living issues. Those social workers in fact act in dual roles—one being the addicts’ helpers in life and the other being their supervisors under the guidance of the police.

While a less compulsory measure applies to these lower risk groups, coercive isolated detoxification appears to target those who repeatedly use illicit drugs and who have in the past or are likely to commit drug-related offences. Although the length of coercive detoxification is shorter than community detoxification, its managerial measures are more intrusive and controlling, in the hopes of addressing a societal harm, as opposed to curing the addicts. The actuarial logic of the coercive detoxification dictates an expansion of the continuum of control for more efficient risk management. Full control over individuals’ freedom is exercised in the facilities, in order to minimize the drug

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207 Id.; see also C.D. Webster, Comment on Thomas Mathiesen’s Selective Incapacitation Revisited, 22 L. & HUM. BEHAV. 417, 471-76 (1998) (critiquing selective incapacitation).
208 Feeley & Simon, supra note 191, at 458.
209 Fan Zhihai, Lu Wei & Yu Jinxi, supra note 117, at 154.
addicts’ contact with the outside world. Effectively inmates, these “patients” were also controlled by making them work participate in hard industrial labor. The Chinese Government assumed that forced labor would inculcate the discipline and sense of collectivism required of post-detoxification life in offenders. More noticeably, addicts may be further controlled under community rehabilitation upon release. Analogous to the practice of community detoxification, community rehabilitation is portrayed as a follow-up neighborhood-based management measure to fill in the gaps between the release of addicts and their reintegration into society.

V. CONCLUSION

Indeed, the establishment of a new detoxification drug system reflects the authorities’ re-evaluation of over-reliance on compulsory administrative measures that emphasize the purposes of punishment and deterrence. In particular, the altered perception of drug addicts as physically and mentally ill patients, as opposed to minor offenders, reflects China’s increased emphasis on human rights protection and rationalization of drug treatment. Or at least, a shift in their viewpoints regarding drug treatment. However, this change in viewpoint does not necessarily produce comprehensive regulatory frameworks and practices. This article highlights the legal and theoretical deficiencies and inconsistencies of the three main detoxification tools, as well as the uniqueness of social conditions upon which these programs are implemented. Through three case studies in Guangzhou, Shanghai and Kunming, this article identifies a wide range of the practical problems of voluntary, community and coercive detoxification, which are unable to be resolved overnight given the current legal and social culture in contemporary China. Thus this the genuine intention of Chinese authorities to hastily introduce this system lies in the government’s endeavor to ensure the maintenance of social order and public safety as opposed to rehabilitation. As such, the new drug detoxification system can be expected to function as a risk-control instrument, administering actuarial justice by managing drug addicts. The detoxification programs focus more on surveillance and custody than on treatment and rehabilitation.