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A HUMAN RIGHTS-BASED APPROACH TO TUBERCULOSIS: THE NAIROBI STRATEGY

The TB and Human Rights Strategy

Members:

Stop TB Partnership

International Human Rights Clinic, University of Chicago Law School

Kenya Ethical, Legal Information Network for HIV (KELIN)

This document outlines the TB and Human Rights strategy to develop and implement a human rights-based approach to TB. This strategy is meant to cover the period of 2017-2020. It includes specific objectives and activities to develop and implement a human rights-based approach to TB at the global, regional, national and local levels. The strategy was developed and workshopped at the TB, Human Rights and the Law judicial workshop held 24-25 June 2016 in Nairobi, Kenya.

The Stop TB Partnership Global Plan to END TB: The Paradigm shift 2016-2020 calls for a human rights and gender based approach to TB that is grounded in international, regional and domestic law that establish rights to health, nondiscrimination, privacy, freedom of movement, and enjoyment of the benefits of scientific progress, among others. The Global Plan outlines recommendations for improving the reach and quality of current medical interventions for TB, provides resource investment strategies for different regions, and acknowledges that TB programming will not be successful unless global and national programs utilize approaches grounded in human rights and gender equity. The WHO's End TB Strategy also recognizes the "protection and promotion of human rights, ethics and equity" as one of four principles essential to ending the global TB epidemic.

Diverse, focused and sustained advocacy efforts directed at key stakeholders, including policymakers, legislators, law enforcement officers, health care workers and judicial officers, led by people with TB, TB survivors and other allies, are necessary to implement a human rights-based approach to TB. The Stop TB and WHO targets for ending TB urge national stakeholders to build TB interventions that focus on the link between protection of human rights and effectiveness and efficiency of national TB responses.

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The Global Plan to End TB 2016-2020

The targets of the Global Plan to End TB 2016-2020 are inspired by the 90-90-90 UNAIDS treatment targets and propose an accelerated TB response. The targets, to be achieved by 2020 or 2025 at the latest, are as follows:



Target 1 focuses on reaching 90% of people with TB who require treatment and providing them with effective therapies. This implies early detection and prompt treatment of 90% of people with TB and coverage of 90% of people who require preventive therapy (people living with HIV and those in contact with TB patients).

Target 2 is a subset of Target 1 and zeroes in on vulnerable, underserved, and at-risk populations also referred to as key populations. While these populations for TB might vary by country what unifies them is that they are frequently missed by the health systems, are unable to access health services, or suffer particularly detrimental consequences as a result of TB.

Target 3 is the most ambitious of treatment targets as it calls for a 90% treatment success rate among people identified as needing treatment, including treatment for drug susceptible TB, drug-resistant TB, or preventive TB therapy.

WHO End TB Strategy

The WHO post-2015 End TB strategy is based on three pillars:

- Integrated patient centered care and prevention
- Bold policies and supportive systems
- Intensified research and innovation

WHO also underlines the following principles for the strategy:

- Government stewardship and accountability, with monitoring and evaluation
- Strong coalition with civil society organizations and communities
- **Protection and promotion of human rights, ethics and equity**
- Adaptation of the strategy and targets at country level, with global collaboration

Under its second pillar – Bold policies and supportive systems- WHO envisions country stakeholders to take on the following actions:

In order to achieve these goals the Stop TB Partnership, KELIN and the International Human Rights Clinic, University of Chicago Law School drafted the **Nairobi Strategy** to implement a human rights based approach to TB.

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The key components of the **Nairobi Strategy** are to:

- Support networks of affected communities of people with TB, TB survivors and civil society at global, regional and national levels.
- Enhance judiciary and legal communities' awareness on implementation of a human rights-based approach to TB;
- Expand legislators' and policymakers' capacity to incorporate human rights based approaches to TB into laws and policies;
- Engage and advise international organizations and experts on the implementation of human rights based approach to TB into global policies and programs;
- Sensitize health care workers in public and private sectors on the need to incorporate a human rights-based approach to TB in their work;
- Formulate and clarify the conceptual, legal and normative content of a human rights-based approach to TB; and
- Conduct qualitative and quantitative research to generate evidence based for the effectiveness of a human rights-based approach to TB.

Primary Objective:

To develop and implement a human rights-based approach to TB at the global, regional, national and local levels

Sub-Objective 1:

Implement a human rights-based approach to TB through diverse advocacy strategies

The [Global Plan](#) and the [WHO's End TB Strategy](#) recognize the "protection and promotion of human rights, ethics and equity" as one of four principles essential to ending the global TB epidemic. Diverse, focused and sustained advocacy efforts directed at key stakeholders, including policymakers, legislators, law enforcement officers, health care workers and judicial officers, led by people with TB, TB survivors and other allies, are necessary to implement a human rights-based approach to TB. We propose the following streams and activities towards this end:

Stream 1.1

Support networks of affected communities of people with TB, TB survivors and civil society at global, regional, national and local levels.

A human rights-based approach to TB requires robust participation and empowerment of people with TB and TB survivors. Leadership from and meaningful participation and empowerment of affected communities is critical to designing, implementing and sustaining effective efforts to combat TB. We propose to support and assist existing networks of people with TB and TB survivors, and help develop such networks where they do not exist. Some of the activities we plan to undertake include:

- 1.1.1 **Develop and support existing networks of people affected by TB:** This will involve collaborating with key stakeholders to conduct regional and national workshops of people with TB and TB survivors to generate and strengthen TB community groups and networks.

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- 1.1.2 **Design and conduct legal trainings for affected communities and civil society:** This will involve designing and conducting trainings to empower affected communities and civil society to use the law and human rights to improve access to TB prevention, treatment and care services and reduce stigma and discrimination of people with TB.¹
- 1.1.3 **Empower people with TB, TB survivors and civil society to make use of judicial and quasi-judicial mechanisms to safeguard their rights:** This will involve designing and conducting trainings in partnership with community groups and civil society to enhance the capacity of people with TB, TB survivors and civil society organisations to utilize judicial and quasi-judicial mechanisms—including domestic courts and administrative bodies, regional and international human rights bodies—to obtain redress for human rights violations and to promote accountability of government and non-governmental actors.
- 1.1.4 **Develop, publish and disseminate materials for community and civil society action:** This will involve developing, publishing and disseminating materials, such as mini-guides, online resources and databases, in partnership with community groups and civil society. This will eventually facilitate community-led action to use law and human rights to improve access to TB prevention, treatment and care services and reduce stigma and discrimination of people with TB.

Stream 1.2

Enhance judiciary and legal communities' awareness on implementation of a human rights-based approach to TB.

The judiciary and legal communities are critical to developing and implementing a human rights-based approach to TB. Informed and trained lawyers are necessary to adequately represent people with TB and TB survivors. Judges and administrative officials are in positions of authority that provides them with the option to protect and promote the human rights of people with TB, while at the same time developing the content of the approach through their decisions and opinions.

- 1.2.1 **Organize and conduct judicial workshops:** Conduct a series of judicial workshops to bring together members of the judiciary at the global, regional and national levels to be sensitized and informed about a human rights-based approach to TB, as well as the biomedical and public health aspects of the epidemic. These forums will provide an opportunity for judicial officers to share their ideas and experiences on adjudicating cases involving TB and related issues involving health and human rights more generally.²
- 1.2.2 **Develop, publish and disseminate a judicial bench guide on TB, human rights and the law:** The guide that will be developed will be used as a reference and resource for judicial officers, providing

¹ Our Members of the TB and Human Rights Consortium team designed and participated in such an activity in September 2014 in New Delhi, India entitled “Zero TB Deaths Activist Training Institute.” Materials used in the training are available with the authors of the strategy

² The TB and Human Rights Consortium organized and conducted two judicial workshops entitled “TB, Human Rights and the Law” in New Delhi, India in December, 2015 and Nairobi, Kenya in June 2016. Materials used in the workshops are available with the authors of this strategy. With cognizance to patient’s rights and responsibilities under the obligations of states and societies

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information on the biomedical and public aspects of TB, the conceptual, legal and normative content of a human rights-based approach to TB, and information on relevant case law.³

- 1.2.3 **Develop and support a network of lawyers**: This will involve identification of lawyers at regional and national levels to be trained to represent people with TB and TB survivors in courts and quasi-judicial bodies using a human rights-based approach to TB, including through direct support for initiating and conducting litigation.
- 1.2.4 **Encourage judicial officers to invite amicus curiae briefs on TB and human rights**: This will involve encouraging judicial officers through judicial workshops and other modes of engagement to invite amicus curiae briefs from experts on TB and human rights in cases involving TB in their courts.
- 1.2.5 **Develop and support a network of legal, medical and public health experts**: This will involve identification of various experts who are available to provide testimony and to contribute to amicus curiae briefs on TB and human rights in courts and quasi-judicial bodies at the global, regional and national levels.
- 1.2.6 **Create and support a closed online community of legal, medical and public health experts**: This will involve the creation and support of a private online platform comprised of a community of experts in law, medicine and public health to provide judges and other key stakeholders, including policymakers, the opportunity to pose questions about TB candidly and privately.

Stream 1.3

Expand legislators' and policymakers' capacity to incorporate human rights-based approaches to TB in laws and policies

- 1.3.1 **Organize and conduct workshops for law and policy makers**: This will involve bringing together legislators and policymakers at the regional, national and local levels to sensitize and build knowledge among them about a human rights-based approach to TB and to promote implementation of the approach in regional, national and local level.⁴
- 1.3.2 **Draft and promote model legislation that implements a human rights-based to TB**: This activity will involve drafting and promoting for the enactment of a TB-specific law that incorporates a comprehensive human rights-based approach at the regional, national and local levels through partnerships with community groups, civil society and relevant international organizations, including the WHO.⁵
- 1.3.3 **Develop, publish and disseminate a handbook on TB and human rights for legislators and policymakers**: This activity will involve developing, publishing and disseminating an easily digestible handbook for legislators and policymakers that presents the content of a human rights-based

³ Similar guides have been made developed and used in other areas, including the UNAIDS “Judging the epidemic: a judicial handbook on HIV, human rights and the law.”

⁴ The TB and Human Rights Consortium will conduct this activity in partnership with the Global TB Caucus, an international network of political representatives with support in more than 100 countries committed to developing and supporting local political representatives to lead the fight against the disease in their own context.

⁵ A human rights-based TB-specific law was passed in Peru in 2014—the *Law on Prevention and Control of TB in Peru*—that will serve as a guide in drafting a model legislation for this activity.

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approach to TB and advocates for its incorporation in national and local level laws and policies. Guidance will be sought from community groups and civil society.

Stream 1.4

Engage and advise international organizations and experts on the implementation of human rights-based approaches to TB in global policies and programs

- 1.4.1 **Engage and advise international organizations and experts on the need to incorporate a human rights-based approach to TB in their work**: This activity will involve working with organisations including the WHO, the UN Office of the High Commissioner for Human Rights, the UN Special Rapporteur on the Right to Health, and the International Labor Organization to build knowledge about incorporation of a human rights-based approach to TB in their work, including in global policies and expert programs.
- 1.4.2 **Engage and advise multilateral aid organizations and philanthropic foundations on the need to incorporate a human rights-based approach to TB in their funding and programming**: This activity will involve working with a number of organizations including, but not limited to, the Global Fund to Fight AIDS, TB and Malaria, the Bill and Melinda Gates Foundation, the Clinton Foundation, the Open Society Foundation, and the Ford Foundation: With a view of persuading them to build knowledge about a human rights-based approach to TB and to promote and prioritize this in their funding and programming.

Stream 1.5

Sensitize health care workers in public and private sectors on the need to incorporate a human rights-based approach to TB in their work

- 1.5.1 **Organize and conduct workshops with health care workers**: Organize and conduct workshops with health care workers to present and promote incorporation of a human rights-based approach to TB in their work and to reduce stigmatization and discrimination of people with TB in health care settings, with the assistance of community groups, civil society and physicians' networks, including Physicians for Human Rights.
- 1.5.2 **Develop, publish and disseminate a handbook on TB and human rights for health care workers**: Develop, publish and disseminate an easily digestible handbook with guidance from community groups and civil society for health care workers that presents the content of a human rights-based approach to TB and advocates for its incorporation in health care settings, including measures aimed at reducing stigmatization and discrimination of people with TB in health care settings.

Sub-Objective 2

Develop the conceptual, legal and normative content and evidence base for a human rights-based approach to TB through interdisciplinary research and scholarship

Although the WHO and others have acknowledged the critical role of human rights in the prevention and treatment of TB, little has been done to develop the conceptual, legal and normative content of a human rights-based approach to the disease. Even less has been done to build the evidence base for the effectiveness of a human rights-based approach to TB in improving prevention and treatment outcomes.

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In order to successfully implement a rights-based approach to TB, it is necessary to develop its conceptual, legal and normative content and to conduct qualitative and quantitative research through interdisciplinary partnerships and scholarship in both academic and public platforms. We propose the following streams and activities toward this end:

Stream 2.1

Formulate and clarify the conceptual, legal and normative content of a human rights-based approach to TB

- 2.1.1 **Research, develop and publish a conceptual, legal and normative framework for a human rights-based approach to TB:** This activity will involve researching, developing, and publishing an article that sets forth the conceptual, legal and normative framework for a human rights-based approach to TB in a leading journal.
- 2.1.2 **Organize and conduct interdisciplinary academic workshops and collaborations:** This activity will involve organizing and conducting interdisciplinary academic workshops and foster global, regional and national collaboration among academic institutions and scholars to promote research, scholarship and constructive dialogues on a human rights-based approach to TB.
- 2.1.3 **Research, draft and publish scholarly articles on the various aspects and components of a human rights-based approach to TB:** This activity will involve researching, drafting and publishing articles on a human-rights based approach to TB in order to develop its content and more closely develop and examine its various aspects and components from an interdisciplinary perspective through partnerships with scholars in medicine, law, public health, economics, anthropology, etc.⁶
- 2.1.4 **Research, draft and publish a case law compendium on TB, human rights and the law:** This activity will involve researching, drafting and publishing a compendium of case law involving TB from global, regional and national courts and quasi-judicial bodies, including case summaries and careful categorization of cases by issue, in order to provide access to relevant jurisprudence to relevant stakeholders.⁷
- 2.1.5 **Design, create and maintain an online database of case law involving TB:** This activity will involve designing, creating and maintaining a free, searchable online database of case law involving TB, based upon the TB case law compendium, including cases from global, regional and national courts and

⁶ KELIN and IHR Clinic acted as guest editors and wrote the editorial for a Special Section of the Health and Human Rights Journal on TB and the right to health, published by Harvard University Press in June 2016. The section brings together a diverse set of scholarship on TB and the right to health that address certain aspects of a human rights-based approach to TB, including research and development of new health technologies for TB, imprisonment and involuntary isolation of people with TB, human rights-based litigation involving TB in Kenya and India, and implementation of a human rights-based approach to combatting TB in Peru.

⁷ A draft case law compendium entitled “TB, Human Rights and the Law: A Compendium of Case Law” has been completed. It includes approximately 150 cases and 40 case summaries from regional and national courts around the world, with a focus on courts in high TB-burden countries. This compendium will be edited and expanded upon through this activity.

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quasi-judicial bodies, in order to provide access to relevant jurisprudence involving TB to lawyers, researchers, physicians and others.⁸

Stream 2.2

Conduct qualitative and quantitative research to generate an evidence base for the effectiveness of a human rights-based approach to TB.

2.2.1 **Design and conduct interdisciplinary quantitative and qualitative research examining various aspects and components of a human rights-based approach to TB:** This activity will involve designing and conducting interdisciplinary quantitative and qualitative research examining various aspects and components of a human rights-based approach to TB in order to determine its effectiveness in increasing access to prevention, testing and treatment services, improving prevention and treatment outcomes, and protecting the human rights of people with TB.

⁸ KELIN and IHR Clinic designed, created and developed the Global Health and Human Rights Database—a free, searchable online database of cases involving health and human rights available at globalhealthrights.org—which could be used to house a TB case law database in line with this activity.