Tuberculosis and the Law Workshop: Latin America and the Caribbean

Key considerations for tuberculosis legislation

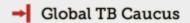
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Establish and protect the rights of people affected by tuberculosis (TB) ¹

Safeguard public health

Grant and define institutional authority and responsibility

- ✓ Ground the objectives of the legislation on the State's obligations under international and regional human rights law, as well as the rights established in the nation's constitution.
- ✓ Establish clear guidelines for the operation of surveillance and notification systems, and screening procedures, with explicit protections for the rights to privacy, confidentiality and informed consent.
- ✓ Ground institutional authority and responsibility on the State's obligation to respect, protect and fulfill the right to health of its people, with recognition of global targets, such as the End TB Strategy.

- ✓ Recognize and establish the rights of people affected by TB, to life and health, meaning to access good-quality prevention, testing, treatment and support services, including new medicines and diagnostic technologies and counseling.
- ✓ Establish clear guidelines for when isolation and involuntary isolation is permissible, and under what conditions, based on the rights to liberty, equality, nondiscrimination, freedom of movement and due process, in line with the 2017 WHO Ethics Guidance on the Implementation of the End TB Strategy.
- ✓ Commit adequate, equitable and sustainable financial resources to the various institutions involved in implementing and enforcing the legislation, including for the procurement of preventive, diagnostic and treatment technologies, and for the wages of health care works and other National TB Program implementers.

- ✓ Recognize and establish the right of people affected by TB to equality and nondiscrimination based on current or former TB status or association with a person with TB in all areas of life, including education, employment, health care, housing, social protection, and create a complaints mechanism to hear and adjudicate discrimination claims.
- Acknowledge the special needs of TB vulnerable communities and key affected populations based on national circumstances, such as children, health care workers, indigenous groups, miners, mobile populations, people living with HIV, people who use drugs, prisoners and rural and urban poor, and commit adequate, equitable and sustainable financial resources to protecting their health.
- Establish periodic reporting requirements for the Ministry of Health to report to the legislature on, among other things, the implementation of the legislation, prospective budgetary needs and use of funds from previous periods, epidemiological data demonstrating the impact of the legislation, and the content of implementing regulations and their alignment with the legislation.

¹ "TB" refers to both drug-susceptible and drug-resistant TB throughout the document.

Establish and protect the rights of people affected by tuberculosis (TB) ¹

Safeguard public health

Grant and define institutional authority and responsibility

- ✓ Recognize and establish the right to participation of people affected by TB in the design, implementation, monitoring and evaluation of TB-related laws, policies, regulations and quidelines.
- Establish clear guidelines for the screening of migrants, both documented and undocumented, with explicit protections for the rights to privacy, confidentiality and informed consent, that ensure provision of TB treatment and support services for migrants with TB, including preventive therapy, and that do not create restrictions on movement based on TB.
- ✓ Acknowledge and grant institutional authority and responsibility in a multi-sectoral manner in order to address the social, economic and environmental determinants of TB, including, among others, the Ministries of Health, Labor, Social Protection and Justice, but with the primary responsibility to implement the law and its regulations to the National TB Program.

- ✓ Recognize and establish the rights of people affected by TB to liberty, freedom of movement and to be free from arbitrary detention, with proportional limitations permissible only based on law and with due process rights.
- ✓ Acknowledge the necessity of information about TB, including the mode of TB transmission, that it is curable, and about the prevention, testing and treatment of TB, to protecting public health and establish and fund programs to develop and disseminate such information throughout the country.
- Grant authority and define responsibility for an inclusive, multi-sectoral process for drafting implementing regulations, led by the Ministry of Health, through the National TB Program, including participation of people affected by TB, and representatives from relevant ministries and the private health sector.

✓ Recognize and establish the rights of people affected TB to privacy and confidentiality, including in in their TB status and personal health data, with proportional intrusions only permissible based on law when a person poses an immediate, real and serious threat to public health.

✓ Acknowledge and clearly define the role of public health officials in implementing the law, with explicit limitations on their authority based on, among others, the rights to liberty, equality and nondiscrimination, privacy, confidentiality and due process.

•	e rights of fected by	Safeguard public health	Grant and define institutional authority and responsibility
of people affect consent for all t	nd establish the right ted by TB to informed testing and treatment ing the right to refuse		✓ Recognize and empower the courts and other adjudicatory bodies in the executive branch to receive and adjudicate claims under the legislation from people affected by TB.
right of people information, incomprevention, test TB, the mode of the benefits and	and establish the affected by TB to sluding about the ing and treatment of f TB transmission, and drisks of treatment, se treatment side		✓ Recognize, support and facilitate civil society and community groups to work closely with the National TB Program and other stakeholders in the design, implementation, monitoring and evaluation of TB policies, regulations and guidelines.
right of people effective and til and, if possible bodies in the ex	and establish the affected by TB to an mely remedy in court other adjudicatory recutive branch for e rights established in		✓ Recognize and incentivize the role of the private health sector, in coordination with the National TB Program, to provide good quality prevention, testing, treatment and support services, and to abide by the notification system requirements.
of people affect security, social insurance, inclu of unemployme age or other cir of means of sui discrimination, receiving health	and establish the right ted by TB to social protection and social ding in the event ent, disability, old cumstances of loss posistence, without even if they are not a care for TB or if they ag to their treatment		✓ Grant authority, define responsibility and commit financing to the Ministry of Health, through the National TB Program and existing public research institutions, along with other stakeholders, including relevant Ministries, universities, private research institutions and international organizations, to conduct TB research and to develop new health technologies for TB based on ethical and human rights principles and including community-based participatory research methods.