

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

TB and Human Rights Consortium

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This document outlines the TB and Human Rights Consortium's 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 strategy has been revised in line with comments received prior to and during a consultation on the strategy held 9-10 March, 2017 in Geneva, Switzerland.

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. The approach is grounded in international, regional and national law that establishes the rights to health, nondiscrimination, privacy, liberty and security of person, freedom of movement, food, water and sanitation, and the benefits of scientific progress, among others. The Global

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:

Reach at least

90%
OF ALL PEOPLE
WITH TB

and place all of them on appropriate therapy—first-line, second-line and preventive therapy as required

As a part of this approach, reach at least

(90)%
OF THE KEY
POPULATIONS

the most vulnerable, underserved, at-risk populations

Achieve at least

90%
TREATMENT
SUCCESS

for all people diagnosed with TB through affordable treatment services, adherence to complete and correct treatment, and social support.

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.

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 Global Plan also identifies key populations that are more prone to TB either due to environmental, biological or behavioral risks, or barriers in accessing public services. Key populations include the urban and rural poor, mobile populations, miners, prisoners and detainees, people who use drugs, people living with HIV, health care workers and children. Key populations must be engaged as allies and leaders in the development and implementation of a human rights-based approach to TB.

The WHO *End TB Strategy* recognizes the “protection and promotion of human rights, ethics and equity” as one of four principles essential to ending the global TB epidemic. 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 the effectiveness and efficiency of national TB responses.

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

The Stop TB Partnership, KELIN and the International Human Rights Clinic, University of Chicago Law School have formed the **TB and Human Rights Consortium** and drafted the **Nairobi Strategy** to develop and implement a human rights-based approach to TB.

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

- Empower and Support networks of affected communities of people with TB, TB survivors and broader 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 base for the effectiveness of a human rights-based approach to TB;
- Facilitate inclusive, community-led discussions to develop and promote use of ethical standards to gather and use TB data.

Goal:

Human rights-based approaches to TB developed and implemented at the global, regional, national and local levels.

Objective 1: To develop and implement a human rights-based approach to TB at the global, regional, national and local levels

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

Diverse, focused and sustained advocacy efforts directed at key stakeholders led by people with TB, TB survivors and other allies are necessary to implement a human rights-based approach to TB. Key stakeholders include policymakers and administrators in relevant ministries, including health, prisons, and labor and employment, lawmakers, judicial officers, health care workers and private sector actors, such as employers, health care providers and drug manufacturers. We propose the following streams and activities towards this end:

1.1 Empower and support networks of affected communities of people with TB, TB survivors and broader civil society at global, regional, national and local levels.

A human rights-based approach to TB requires robust participation, empowerment and support of people with TB and TB survivors. The focus of these efforts should be on key populations, such as urban and rural poor, prisoners, mobile populations, people living with HIV, drug users, miners and health care workers. Leadership, meaningful participation and empowerment of affected communities is critical to designing, implementing and sustaining effective efforts to combat TB. We propose to empower and support 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, empower and support existing networks of people affected by TB: This will involve collaborating with key stakeholders to conduct workshops at the global, regional and national levels of people with TB and TB survivors to strengthen existing TB community groups and networks and to help develop and support new associations.

1.1.2 Design and conduct legal trainings for affected communities and broader civil society: This will involve designing and conducting trainings to empower affected communities and broader 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 and support people with TB, TB survivors and broader 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 broader 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 broader 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. The underlying objective is to 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. Materials will be translated into local languages to ensure comprehension by communities affected by TB.
- 1.1.5 **Empower and support people with TB, TB survivors and broader civil society to engage in setting national TB program targets:** This will involve training and supporting people affected by TB and civil society to engage with national TB programs in setting program targets to ensure they respect, protect and fulfil human rights.

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:** This will involve conducting 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:** This will involve developing, publishing and disseminating a guide for use as a reference and resource for judicial officers, providing information on the biomedical and public health aspects of TB, the

¹ Members of the TB and Human Rights Consortium 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 Members of 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.

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 relevant experts, including from law, medicine, public health, psychology, social work, economics and anthropology:** This will involve the creation and support of a private online platform comprised of a community of relevant to provide judges and other key stakeholders, including policymakers and lawmakers, the opportunity to pose questions and engage in candid, private discussion about TB with experts.

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

- 1.3.1 **Organize and conduct workshops for law and policy makers and administrators:** This will involve bringing together legislators, policymakers and administrators 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
- 1.3.2 **Draft and promote model legislation that implements a human rights-based approach to TB:** This will involve drafting and promoting enactment of a model TB-specific law that incorporates a comprehensive human rights-based approach at the regional, national and local levels through partnerships with community groups, broader civil society and relevant international organizations, including the WHO.⁴
- 1.3.3 **Develop, publish and disseminate a handbook on TB and human rights for legislators, policymakers and administrators:** This will involve developing, publishing and disseminating an easily digestible handbook for legislators and policymakers that presents the content of a human rights-based approach to TB and advocates for its incorporation in national and local level laws, policies and practices. Guidance will be sought from community groups and broader civil society.

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 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.

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 will involve working with organisations including the WHO, the UN Development Program, the Office of the UN 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 bilateral and multilateral aid organizations and philanthropic foundations on the need to incorporate a human rights-based approach to TB in their funding and programming: This 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 Open Society Foundations and the Ford Foundation, to persuade and assist them in building knowledge about a human rights-based approach to TB and to promote and prioritize the approach in their funding and programming.

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: This will involve organizing and conducting 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, broader civil society and physicians' networks.

1.5.2 Develop, publish and disseminate a handbook on TB and human rights for health care workers: This will involve developing, publishing and disseminating an easily digestible handbook with guidance from community groups and broader 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.

Objective 2: Develop further the conceptual, legal and normative content and evidence base for a human rights-based approach to TB through interdisciplinary research and scholarship and close collaboration with people affected by TB

While there has been some progress in developing the conceptual, legal and normative content of a human rights-based approach to TB, more work is needed to examine and clarify the content of the approach. This includes building the evidence base for the impact of a human rights-based approach to improving TB prevention, case detection and treatment outcomes through qualitative and quantitative research and interdisciplinary partnerships. To the greatest extent possible, all research should be designed and conducted in close collaboration with people affected by TB. To promote accessibility and influence on policy, research and scholarship should be presented in both academic and public platforms. We propose the following streams and activities toward this end:

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 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 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 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.⁵
- 2.1.4 **Research, draft and publish a case law compendium on TB, human rights and the law:** This 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.⁶
- 2.1.5 **Design, create and maintain an online database of case law involving TB:** This 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 quasi-judicial bodies, in order to provide access to relevant jurisprudence involving TB to lawyers, researchers, physicians and others.

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 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.

⁵ Members of the TB and Human Rights Consortium 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.

⁶ Members of the TB and Human Rights Consortium have completed a draft case law compendium entitled “TB, Human Rights and the Law: A Compendium of Case Law.” 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.

2.2.2 **Facilitate inclusive, community-led discussions to develop and promote use of ethical standards to gather and use TB data:** This will involve discussions in workshops and conferences people with TB, TB survivors and civil society to develop and promote use of ethical standards for the collection and use of epidemiological and other data related to TB.