

# Developing a Human Rights-Based Approach to TB

Research, Litigation and Global  
Advocacy

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# Overview:

1. A human rights-based approach to TB
2. Legal and judicial resources and trainings
3. Nigeria TB Legal Environment Assessment

# What is a Human Rights-Based Approach to TB?

# A Human Rights-Based Approach to TB

## **WHO End TB Strategy:**

- 2<sup>nd</sup> Key Principles—Building a strong coalition with civil society and communities
- 3<sup>rd</sup> Key Principle—Protecting and promoting human rights, ethics and equity.

## **TB and Human Rights Issues:**

- Lack of access to testing and treatment services, including new drugs and diagnostics.
- Lack of privacy and confidentiality.
- Imprisonment for treatment non-adherence.
- Discrimination in the workplace, education and health care settings.

# A Human Rights-Based Approach to TB

## **Core Principles:**

- Founded on dignity and autonomy of the individual.
- Articulates legal entitlements, freedoms and protections, and rights related to prevention under international, regional and national law.
- Establishes obligations of government and non-state actors.

## **Cross-Cutting Principles:**

- Principle of nondiscrimination and equality
- Focus on vulnerable and marginalized groups (key populations).
- Participation in decision-making.
- Accountability and remedies.

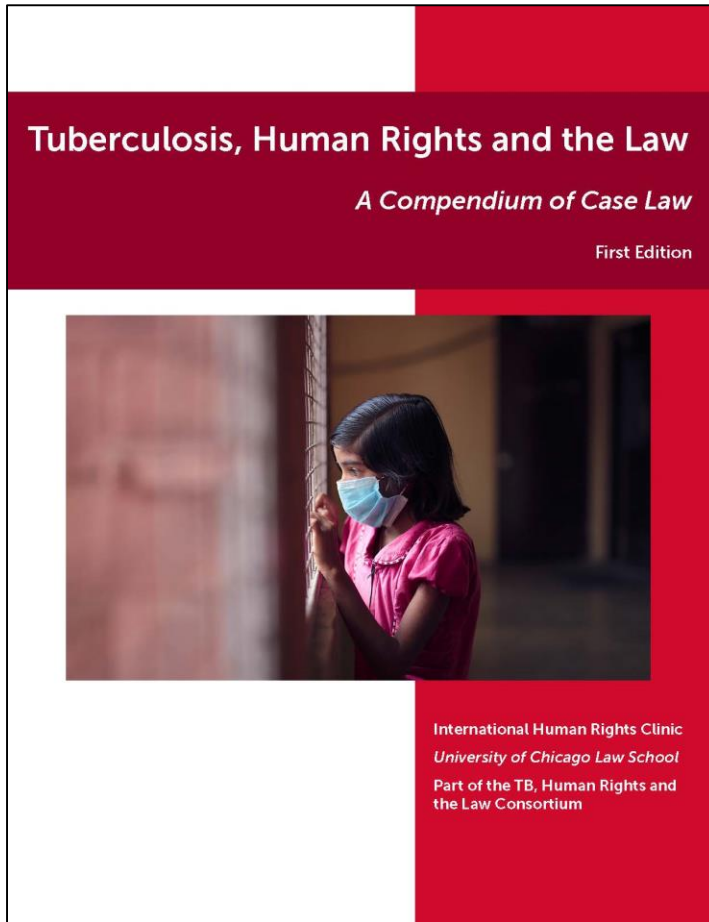
# A Human Rights-Based Approach to TB

## Three Part Rights-Based Framework:

1. Individual Entitlements—rights to life, health, information, to benefit from scientific progress.
2. Individual Freedoms and Protections—rights to non-discrimination, privacy and confidentiality, freedom from torture, informed consent, liberty/movement.
3. Rights Related to Prevention—rights to housing, food/nutrition, sanitation, education.

# TB Legal and Judicial Resources

# TB, Human Rights and the Law Case Compendium



- UNAIDS/UNDP HIV, Human Rights and the Law Case Compendiums (2013).
- Research conducted in Chinese, English, French, German, Portuguese and Spanish
- Archive of case law summarized for convenience and ease of use.
- 80+ cases
- 20 jurisdictions, including European Court of Human Rights and Inter-American Court/Commission on Human Rights
- 17 countries:
  - Argentina, Bolivia, Brazil, Canada, Chile, China, Colombia, France, India, Kenya, Pakistan, Peru, Philippines, South Africa, Switzerland, United Kingdom and USA



# TB, Human Rights and the Law

## Case Compendium

### **11 Case Categories (in order of number of cases):**

- Prisons and Torture or Cruel, Inhuman or Degrading Treatment or Punishment
- Compensation, Insurance and Property
- Compulsory Isolation, Testing or Treatment
- Immigration and Asylum
- Right to Life
- Employment Discrimination
- Causation
- Right to Fair Trial and Effective Remedies
- Negligence
- Social Determinants of Health
- Right to Privacy

# TB, Human Rights and the Law

## Case Compendium

### **Case Identification and Summarization Criteria:**

- Prominence of tuberculosis in the case.
- Jurisdiction, focusing on jurisdictions with high incidence of tuberculosis or influential case law.
- Issue involved, towards the goal of providing thematic diversity and highlighting human rights issues
- Level of court, focusing on the highest court and appellate courts in each jurisdiction.

# TB, Human Rights and the Law

## Case Compendium

### Use of Compendium:

- Widely distributed electronically to lawyers, NGOs, activists and researchers around the world
- Global Fund Regional Grant for East and Southern Africa.
  - Southern African Litigation Center (SALC) Lawyers Trainings, March 2017 and February 2018 in Johannesburg.
- Stop TB Partnership Community, Rights and Gender Workshops, July 2017 (Bangkok) and April 2018 (Addis Ababa)
  - Training groups from 13 countries to implement TB Legal Environment Assessments.

# TB, Human Rights and the Law

## Judicial Handbook

### **Objectives:**

- Promote better understanding of the scientific, biomedical and public health aspects of TB and MDR-TB among the global judiciary.
- Encourage judges to apply a human rights-based approach to people with TB in their courts based on international, regional and national law.

### **Process:**

- Modeled on UNAIDS/UNDP Judging the Epidemic: A Judicial Handbook on HIV, Human Rights and the Law (2013).
- Inclusive, consultative process engaging global stakeholders for input and guidance.
- Launch will include leading jurists and judges from diverse jurisdictions to promote use of the handbook.

# TB, Human Rights and the Law

## Judicial Handbook

### Chapters and Topics:

#### Part I: The Science and Medicine of TB and MDR-TB:

- What is TB and How is TB Transmitted?
- TB Disease and Treatment
- Airborne Transmission of TB
- Socioeconomic and Psychosocial Aspects of TB

#### Part II: Applying a Human Rights-Based Approach to TB and MDR-TB:

- Access to TB Testing and Treatment
- Stigmatization and Discrimination
- Privacy and Confidentiality
- Involuntary Isolation, Testing and Treatment
- Prisons and Cruel, Inhuman or Degrading Treatment
- Immigration and Asylum
- Criminalization of TB
- Key Populations

# *Amicus Curiae* Experts Roster

***Amicus Curaie*** means friends of the court.

## **Objective:**

- Develop, maintain and promote awareness and use of a list of TB and MDR-TB experts by lawyers litigating cases involving TB around the world.

## **The Roster:**

- 13 experts
- 7 countries
- Expertise in clinical practice, prevention and infection control, pediatrics, new drugs, programmatic management, epidemiology

# *Amicus Curiae* Experts Roster

## ***Kaushal Kishore Tripathi v. Lal Ram Sarup TB Hospital and Others***

- Delhi High Court case for XDR-TB patient access to bedaquiline decided January 2017.
- Patient represented by Anand Grover and Lawyers Collective.
- Dr. Jen Furin (Harvard Medical School) of the Roster submitted an affidavit as an international expert in support of the patient receiving the drug.
- Parties, including Drug Controller General of India, agreed to provide bedaquiline under supervision of Dr. Udhwadia (also on the Roster).

# Nigeria TB Legal Environment Assessment



# Nigeria TB LEA

## **Stop TB Partnership Community, Rights and Gender Assessment Tools**

- Conducted on the invitation of the Minister of Health in partnership with the National TB and Leprosy Control Program.
- Review and assessment of all laws, policies, case law and legal practices implicating TB.
- Participation of civil society, community groups, TB patients and TB survivors.

# Nigeria TB LEA

## Draft TB LEA Recommendations:

- Convene a Dialogue on TB in the National Assembly
- Prohibit all forms of discrimination against people affected by TB—both intentional and indirect, in the public and private spheres—in legislation and policy
- Develop and implement a human rights-based, patient-centered policy for isolation and involuntary isolation
- Remove and replace all stigmatizing and discriminatory terms in all relevant federal and state legislation and policy
- Repeal and rewrite all sections of the *Lagos State Public Health Law, 2015* on infectious diseases

Thank You