



# Impact of Criminalization

**Strategic Litigation, Legal Defense & Advocacy Training**

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# Impact of TB Criminalization

- ▶ Stigmatization
  - ▶ Deters health seeking behavior, including delays or avoidance of diagnosis or treatment interruptions leading to death, drug resistance, unnecessary pain and suffering and/or further disease transmission.
  - ▶ Leads to discrimination in employment, health care settings, education, housing, etc.
  - ▶ Poor treatment or expulsion from family or community.
- ▶ Self-stigma and poor mental health



# Impact of TB Criminalization

- ▶ Deterrent of health-seeking behavior leading to poor individual and public health outcomes
    - ▶ Delays or avoidance of diagnosis leading to further spread of disease
  - ▶ Poor treatment outcomes leading to death, drug resistance, unnecessary pain and suffering and/or further disease transmission.
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# Impact of TB Criminalization

- Negative impact on health worker – patient relationship
  - Divided loyalties, lack of trust
  - Health workers and health care institutions become mechanisms of enforcement for criminal or other laws or regulations.
- Creates, perpetuates or exacerbates stigma among health workers toward people with TB, resulting in poor treatment of patients.

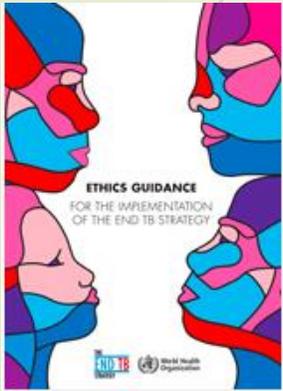


# Impact of TB Criminalization

- ▶ Disproportionate (discriminatory) impact on vulnerable or marginalized groups, including TB key, vulnerable populations
  - ▶ Members of these groups are subject to law enforcement and prosecution at higher rates than individuals from wealthier, more politically powerful, often the majority
  - ▶ For example, migrants and undocumented immigrants, people who use drugs, former prisoners, the poor, people living with HIV, people living in informal or illegal settlements in urban areas, etc.
- ▶ Evidence shows people living with HIV perceived as “others” have been disproportionately prosecuted under HIV-specific or general criminal laws (*Criminalising Contagion*, p. 4)

# What is Ethics?

- Ethics is concerned with what should, or ought to, be done. It includes consideration of the way we ought to live our lives (including our actions, intentions and habits). Due to cultural or religious differences, ethics can sometimes be a source of disagreement and conflict between people. However, through careful analysis and debate between all relevant stakeholders, it is often possible to arrive at a meaningful consensus regarding which actions or policies should be pursued



**(WHO Ethics Guidance 2017)**



# Who is responsible to protect and promote ethics and human rights when implementing the End TB Strategy?

- ▶ The managers of national TB programmes, and those responsible at the subnational level, have the primary duty to promote, support and monitor the implementation of the End TB Strategy in line with sound ethics and due protection of human rights law as established in conventions, such as the International Covenant on Economic, Social and Cultural Rights, since the vast majority of Member States are signatories and have ratified the said covenant (17). This responsibility, however, is not limited to leaders of TB programmes: everyone who participates in TB management, care and research has a responsibility to do so in a manner that is ethical and in keeping with international human rights.



# Public Health Argument

- Quarantine is a disease control measure that applies to individuals who have been exposed to a communicable disease but are not yet ill. Individuals who are latently infected with TB pose no risk of transmission; therefore, quarantine is not an appropriate disease control measure for TB.
- Isolation is the separation of ill persons who have a communicable disease from those who are healthy and restriction of their movement to stop the spread of that disease or illness. ne is not an appropriate disease control measure for TB.
- Isolation is the separation of ill persons who have a communicable disease from those who are healthy and restriction of their movement to stop the spread of that disease or illness. Public health officials generally may isolate individuals with TB disease if they pose a threat to the public's health.



# Isolation and involuntary hospitalization

- Respiratory isolation in TB management can take the form of physical isolation in hospital or household, or the use of masks worn by patients, and it is almost always voluntary.
- Involuntary isolation, except in narrowly defined circumstances (as described below), is unethical and infringes an individual's rights to liberty of movement, freedom of association, and to be free from arbitrary detention.
- It is ethical to ask persons with active TB to voluntarily isolate themselves while they are deemed to be contagious in order to protect others from acquiring the bacteria.



# Isolation and involuntary hospitalization

- ▶ Protecting others from harm through restrictive measures like isolation is found in human rights law, such as the International Covenant on Civil and Political Rights, and expert-guidance documents, such as the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights



# When is it unethical to isolate persons with TB?

- ▶ It is unethical to isolate persons with TB if the person is not contagious or if isolation holds no clear public health benefit to the community.
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# Is it ever ethically acceptable to resort to involuntary isolation in the context of TB?

- ▶ TB treatment should be provided on a voluntary basis, with the patient's informed consent and cooperation. Engaging the patient in decisions about treatment shows respect, promotes autonomy and improves the likelihood of adherence. Non-adherence is often the direct result of failure to engage the patient fully in the treatment process.
- ▶ Involuntary isolation should never be a routine component of TB programs. However, there are rare situations where, despite all reasonable efforts, patients do not adhere to the prescribed course of treatment, or are unwilling or unable to comply with infection prevention and control measures. For such cases, the interests of other members of the community may justify efforts to isolate the patient involuntarily.



Unfortunately, WHO has produced a list of priorities in 2018 and TB is not on this list...

A disease that affects 2 billion people, made 10.4 million sick, and killed 1.7 million in 2016. This is an epidemic under the WHO definition.

Politics will now kill more people than any disease.



# THANK YOU!

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