

# Litigating to protect the rights of TB in Kenya

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# Outline of presentation

- Background
- Interventions
- Results
- Conclusion

# LINK TO THE VIDEO

- [http://www.youtube.com/watch?v=m01zqVC\\_C\\_gk](http://www.youtube.com/watch?v=m01zqVC_C_gk)

# Background

- In August 2010 KELIN received reports that three TB patients in a local town called Kapsabet had been arrested and consequently imprisoned for failing to take their treatment
- One of the patients was too sick to stand trial and was taken to hospital treated and eventually released
- The other two were jailed for a period of 8 months to coincide with the treatment for TB
- The public health officers relied on the provisions of the Public Health Act

- 27. Where, in the opinion of the medical officer of health, any person has recently been exposed to the infection. and may be in the incubation stage, of any notifiable infectious disease and is not accommodated in such manner as adequately to guard against the spread of the disease, such person may. on a certificate signed by the medical officer of health, be removed, by order of a magistrate and at the cost of the local authority of the district where such person is found, to a place of isolation and there detained until, in the opinion of the medical officer of health, he is free from infection or able to be discharged without danger to the public health, or until the magistrate cancels the order.

# Interventions before

- Circular by civil society to the minister of public health
- A urgent court case to secure the release of the two patients
- Trainings at the community level with all stakeholders involved in TB care and management
- Community dialogue forums with all stakeholders involved in TB care and management
- National advocacy with TB department officials and civil society members
- Public interest litigation to challenge the provisions of Section 27 of Public health



# What did we want the court to do?

- Declare that prison is not the best place for confining TB patients for treatment purposes.
- Declare that the imprisonment of the two TB patients amounted to a violation of their human rights .
- An order that cabinet secretary of health issues a circular within 14 days to all public health officers to the effect that prison is not the contemplated place of isolation.
- Damages for the unlawful confinement
- Development of a policy within 90 days





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*When replying please quote:*

Ref: MOH/ADM/1/1/2

Date: 12 May 2016

County Executive Committee Members for Health  
Chief Officers of Health  
County Directors of Health

Thro:

The Chairman  
Council of Governors  
Delta Plaza  
Westlands

**RE: IMPLEMENTATION OF THE HIGH COURT JUDGEMENT  
CHALLENGING THE IMPRISONMENT OF TB PATIENTS**

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Following the High Court ruling issued on March 24<sup>th</sup> 2016 that found the confinement of TB patients in prisons unlawful and unconstitutional, the following measures are to be applied with immediate effect:

1. Confinement of patients suffering from infectious diseases for the purposes of treatment shall not be done in prison facilities
2. Where despite all reasonable efforts, patients with infectious disease are unwilling or unable to comply with treatment; court orders shall be sought to compel isolation, confinement or detention as referred to in section 27 of the Public Health Act, CAP 242

3. The isolation can be done at a health facility in adherence to; infection control measures and for the purpose of ensuring that patients adhere to the course of treatment for the public interest and their own interest
4. The Ministry of Health in consultation with county governments, shall in due course issue further policy direction on the involuntary confinement of persons with TB and other infectious diseases.



Dr. Nicholas Muraguri  
PRINCIPAL SECRETARY

# Interventions after the case

- Media engagement
- Follow up demand letters to the Ministry of health
- Use of social media #TBIsNotACrime
- Community and civil society meetings to plan way forward
- Judicial workshops involving TB survivors

# Conclusion



# Thank you

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