

Community Guide: Legal Environment Assessment for TB



Regional Platform
for Communication and Coordination
on HIV/AIDS, Tuberculosis and Malaria
For Anglophone Africa

WHAT IS A LEGAL ENVIRONMENT ASSESSMENT (LEA) FOR TB?

Legal Environment Assessment is a tool for identifying legal, regulatory and human rights and barriers and how these barriers affect health in the context of TB.

The Global Fund recognizes Legal Environment Assessments as a useful tool for identifying the laws, policies and practices that pose barriers to TB affected communities to accessing health service. These assessments inform the planning of practical programs that address those barriers.

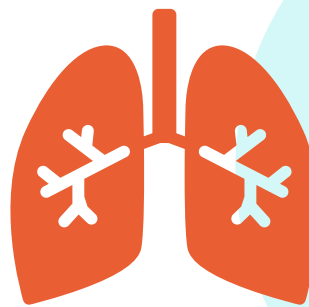
As part of comprehensive programming, Global Fund recommends that national stakeholders closely examine and address human rights and gender-related barriers to accessing health services to maximize the impact of national HIV and TB responses.



WHY ARE LEGAL, REGULATORY AND HUMAN RIGHTS BARRIERS TO TB IMPORTANT?

TB disproportionately affects individuals who are vulnerable or marginalized. Key populations who face¹ significant challenges when accessing TB care include:

The TB epidemic is fuelled by social and economic disparities faced by people from these communities. Additionally, according to STOP TB Partnership, “these challenges are perpetuated and exacerbated by policies and practices that violate human rights, hinder the achievement of gender equality, restrict access to essential medications, and generally discourage health-seeking behaviour.” Even when laws that aim to protect and promote human rights are in place, they are not always fully enforced.



- ✓ People living with HIV
- ✓ People who use drugs
- ✓ Mobile populations
- ✓ Rural and urban poor
- ✓ Miners
- ✓ Prisoners
- ✓ Women and children

¹ http://www.stoptb.org/news/stories/2016/ns16_018.asp

WHAT ARE SOME EXAMPLES OF THESE BARRIERS?

THERE ARE A MULTITUDE OF BARRIERS THAT IMPACT ACCESS TO PREVENTION, TREATMENT AND CARE. SOME EXAMPLES ARE LISTED BELOW:

- Imprisonment for not adhering to treatment protocols – as opposed to a human rights-based, patient-centered policy for isolation and involuntary isolation.
- The use of stigmatizing and discriminatory terminology in state legislation and policy.
- Lack of clear provisions in the law guaranteeing the right to TB and other health services for migrants.
- Loss of privacy and confidentiality through reporting or contact identification.

WHAT DOES AN LEA DO?



IDENTIFIES POPULATIONS THAT ARE PARTICULARLY IMPACTED BY TB AND/OR HIV;

REVIEWS LAWS, POLICIES AND PRACTICES THAT SERVE AS BARRIERS TO ACCESS TB SERVICES FOR THESE POPULATIONS;



ANALYSES WHERE HUMAN RIGHTS VIOLATIONS MIGHT HAMPER ACCESS;

ENGAGES COUNTRY STAKEHOLDERS IN THE ALIGNMENT OF LAWS, POLICIES AND PRACTICES WITH HUMAN RIGHTS FRAMEWORK



PLANS FOR THE ALLOCATION OF RESOURCES (HUMAN, POLITICAL AND FINANCIAL) TO IMPLEMENT CHANGES.

THE SCOPE OF AN LEA MAY BE BROAD OR NARROW.

A BROAD LEA includes review of all legal and policy concerns related to TB, including international and human rights law; national obligations to international treaties; constitutional law; and policies and guidelines regulating treatment and care delivery.

A NARROW LEA on the other hand may address one or several specific issues, or the impact of TB on one or several key populations, focusing on the laws, regulations and lack of protections that impact access to TB treatment and care for these groups.



WHAT TOOLS EXIST TO HELP COUNTRIES CARRY OUT LEGAL ENVIRONMENT ASSESSMENTS FOR TB?

The Legal Environment Assessments for Tuberculosis: An Operational Guide² was developed by the STOP TB Partnership based on a similar guide for HIV produced by UNDP. The tool discusses LEAs centered around the laws, policies and practices that impact national TB responses, with a focus on TB key populations. The LEA process envisions not only a legal and regulatory review, but also the extensive consultation with experts and key stakeholders (including civil society, community groups, TB patients, survivors and other development partners and implementers), training for judges and lawyers, and other activities across sectors that focus on contributions from affected populations, as these populations can bring invaluable expertise and recommendations to the table.

² http://www.stoptb.org/assets/documents/communities/StopTB_TB%20LEA%20DRAFT_FINAL_Sept%202027.pdf

AT WHAT STAGE SHOULD COUNTRIES CONDUCT LEGAL ENVIRONMENT ASSESSMENTS FOR TB?

Legal Environment Assessments should connect to and build upon national processes. Key questions to ask:

- Will a new HIV and/or TB National Strategic Plan be developed soon?
- Will the current HIV and/or TB National Strategic Plan be reviewed soon?
- Is there an opportunity to submit a funding request to the Global Fund or other funding processes at country level?
- Are there other key strategic national opportunities?



CAN MY COUNTRY RECEIVE TECHNICAL ASSISTANCE TO CONDUCT A LEGAL ASSESSMENT FOR TB?

The Global Fund Community, Rights and Gender Technical Assistance Program has provided support for legal environment assessments. It is critical for both civil society and governments to own the process to ensure success.



TO READ MORE:

LEGAL ASSESSMENT

- EANNASO et al. December, 2017. *Legal Environment Assessment for Tuberculosis (TB) in Tanzania*
- Kenya. January, 2018. *Tuberculosis: An Assessment of the Legal Environment*
- Republic of Botswana. November 2017. *Assessment of Legal and Regulatory Framework for HIV, AIDS and Tuberculosis*
- Kingdom of Lesotho. 2016. *Report on Assessment of the Legal Environment for HIV and AIDS in Lesotho*
- Nigeria. December, 2015. *Legal Environment Assessment for HIV/AIDS Response in Nigeria*

USEFUL RESOURCES

- EANNASO. *Global Fund and Human Rights: a community guide to the Global Fund's intensified efforts to scale up programs to remove human rights barriers to health services and the human rights violations complaint mechanism*
- EANNASO. *Community Guide: TB/HIV Gender Assessments*
- STOP TB. 2017. *Legal Environment Assessments for Tuberculosis: An Operational Guide*
- Stop TB – *The Global Plan 2016-2020*
- Global Fund - *Technical Brief on TB, Gender and Human Rights*
- WHO – *Tuberculosis and Human Rights Information Note*

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