Letter from Field

Tuberculosis and universal health care legislations: pathways to upholding the right to health of every people

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The 1987 Philippine Constitution enshrines as one of its principles and State policies the protection and promotion of the right to health of the people and the instilling of health consciousness among them. As part of its provisions on social justice and human rights, it adopts “an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost.” It also mandates that “there shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.”

With these in mind, the “Comprehensive Tuberculosis Elimination Plan Act,” which I have principally authored, has been enacted into law in 2016 and is now one of the landmark laws in the Philippines, a country where the burden of tuberculosis (TB) remains particularly high with around 1 million people are estimated to have TB.

Among the law's important features include provisions for notification of TB cases, inclusion of modules on TB control in the curriculum, expansion of insurance benefits to include multidrug-resistant TB, allocation of adequate funding for the National TB Program, research and development, and TB awareness and information dissemination.

The TB law was enacted not only to protect the rights of individuals who had been victimized by the disease but to safeguard the general public from the scourge of TB. This concern has been clear with me from the filing of the bill to deliberations, to the enactment, and finally to its implementation. It is premised on the fact that health requires the recognition as well as the protection of the fundamental rights of every human being.

The idea that universal health coverage must be available to all as a right of citizenship can be mirrored in some portions of the law such as the provision for free laboratory services, free TB drugs, and the expansion of the benefit package of the national health insurance program for TB patients to include new, relapse and return-after-default cases, and extension of treatment.

The overall concept of voluntary participation of affected persons and sectors dictates that TB legislation must not only embrace non-discrimination in order to address the lingering problem of stigma but it must also feature affirmative efforts to correct inequities. Hence, it must be, in a sense, a form of social justice legislation that is biased in favor of the poor, weak, and vulnerable.

Respect to every person has been one of the essential values of the TB law along with respect for dignity and autonomy. Thus, it is more facilitative than coercive. It champions the cause of people and community empowerment as can be seen in the provisions on public information and education programs, inclusion of modules on the principles and practices of preventing, detecting, managing and controlling TB in the health curriculum, and training and enhancement of the capability of health providers.

The law recognizes the cause of human rights not only through its contents but also through the non-inclusion of provisions that mandate isolation or quarantine of TB patients and compulsory testing, screening, examination and treatment inasmuch as these provisions may impair the right of individuals to freedom of movement and to autonomy and self-determination.

Rights, however, are not absolute. They can be limited on grounds of public health. Although the TB law is still very new—many of its provisions are yet to be implemented and the agencies tasked to implement its various provisions vary in their efforts to ensure its full implementation—I have already noted some areas that must be improved through amendatory initiatives.

The compelling need to strengthen the TB law stems from the recent approval of the Political Declaration on the Fight Against TB, which was endorsed at the UN High-Level Meeting (HLM) on TB by the heads of state and government and their representatives.

The UN HLM on TB on 26 September 2018 in New York under the theme “United to end TB: an urgent global response to a global epidemic” is a tremendous and unprecedented step forward by governments and all partners engaged in the fight against TB. It aims at accelerating efforts in ending TB and reaching all affected people with prevention and care and follows on from a very successful Ministerial Conference on Ending TB in Moscow on 16–17 November 2017, which resulted in high-level commitments from Ministers and other leaders from 120 countries to accelerate progress to end TB.

The Philippines as one of the high burden TB countries (it has the fourth highest burden of TB in the world after India, China, and Indonesia) is signatory to the Political Declaration on the Fight Against TB. It has committed to end the TB epidemic by 2030 as envisioned in the Agenda 2030 of the Sustainable Development Goals. The country has, among others, affirmed its commitment to: 1) Ensure adequate social protection measures for indigent TB patients through multi-sectoral approach with the engagement of other government agencies, the private sector and other stakeholders; 2) Accelerate efforts to improve access to rapid TB diagnostic tools, introduce new TB treatment regimens, enhance the logistics management system, adopt cutting-edge digital tools, and guarantee adequate and competent health human resources; 3) Ensure better health outcomes, a more responsive health system, and a more equitable health care financing; and 4) Forge partnerships in the areas of effective referral system development to ensure continuum of care, prevent discrimination, and development of drug resistance and TB research networks establishment and expansion.

Against this backdrop, the need to strengthen the TB law arises in order to enable the country to keep track of its commitment to develop a national strategic plan to find and treat over 2 million Filipinos with TB in the next 5 years.

TB legislation must be taken as a continuing process rather than a 1-time event. Hence, the need for timely amendments in response to changing developments and approaches. One particular problem that needs to be addressed is the indirect costs on the part of TB victims and their family. This may require the institutionalization of a convergence program that will merge collaborative and inter-agency responses to fight TB such as TB health services, provision of social amelioration program to help indigent TB patients like employment and livelihood opportunities.

An important point that need to be overemphasized is that persons ill with TB should not only be seen as patients needing medical attention. They should be dealt with as bread winners of a family who needed to be raised, fed, and supported. Essential services from varying points must converge at the doorsteps of TB victims who must be provided not only with treatment services but also subsistence support for their families in case they cannot afford to work, nutrition support to help their speedy recovery, and transportation allowance for them to be able to access the point of care.

TB often strikes those who can least afford it. More than 95% of TB cases and deaths in the world are in developing countries, with 45% of new cases in Asia. Because of TB, people suffer loss of income equivalent on average to more than 50% of their income. The real stumbling block in enforcing a law to fight TB is the scourge of poverty that lurks in the streets and in many homes day in and day out. TB and poverty are inextricably linked as physical hunger innervates the transmission of TB disease which in-turn robs an individual of economic and social opportunities. South Africa's Archbishop Emeritus Desmond Tutu, a Nobel Prize winner and also a TB victim, believes that "TB is the child of poverty—and also its parent and provider."

As long as poverty, injustice, inequality, and discrimination exist, the problem of TB will continue to persist. Closing the gaps in TB diagnosis, treatment, care, and prevention will demand the provision of adequate income for the poor and championing the cause of fairness, equity, and ultimately, respect for the inalienable rights of every human person.

Concerted efforts to eliminate TB, which is known to cause catastrophic costs for patients and their families, can significantly help lessen financial strain in the limited resources of government. Hence, the need to include TB prevention and care in the provision of the universal health coverage, a concept that was formally introduced in the Philippines through the recent enactment of a universal health care (UHC) law.

The UHC law mandates the provision of immediate eligibility and access for all citizens to preventive, promotive, curative, rehabilitative, and palliative care for medical, dental, mental, and emergency health services, which make the concern for exclusion and equity gaps a non-issue. The enactment of the UHC law is therefore a welcome development in the on-going efforts to eliminate TB in the Philippines because it ensures accessibility and affordability of health services, particularly the availability and quality of treatment, which is critical to TB care.

Certain aspects of the end-TB strategy, however, fall outside the ambit of the UHC law, and which need to be addressed under the TB law. These include the perennial problems of poverty, malnutrition, low quality education, inadequate housing, and broad social inequalities.

In the end, TB and UHC legislations must meet at the crossroads of change and provide viable pathways to uphold the right to health of every people.