

This work is licensed under a [Creative Commons Attribution-NonCommercial-ShareAlike License](https://creativecommons.org/licenses/by-nc-sa/4.0/). Your use of this material constitutes acceptance of that license and the conditions of use of materials on this site.



Copyright 2006, The Johns Hopkins University and Robert S. Lawrence. All rights reserved. Use of these materials permitted only in accordance with license rights granted. Materials provided "AS IS"; no representations or warranties provided. User assumes all responsibility for use, and all liability related thereto, and must independently review all materials for accuracy and efficacy. May contain materials owned by others. User is responsible for obtaining permissions for use from third parties as needed.



JOHNS HOPKINS
BLOOMBERG
SCHOOL *of* PUBLIC HEALTH

Health and Human Rights Principles for Refugee Health

Robert S. Lawrence, MD
Johns Hopkins University



JOHNS HOPKINS
BLOOMBERG
SCHOOL *of* PUBLIC HEALTH

Section A

*Origin, Definition, and
Role of Human Rights*

Origin of Human Rights

- ✦ The term *human rights* came into common use only after World War II and the founding of the United Nations in 1945

Origin of Human Rights

- ✦ It replaces the concept of *natural rights*, which emerged from the philosophy of Greek stoicism
 - The concept of natural rights lost its utility when *natural law* became controversial in the 19th and early 20th centuries because of its misapplication in social Darwinism

Origin of Human Rights

- ✦ Also replaces the Enlightenment concept of “the Rights of Man”
- ✦ Which were not widely understood to include “the Rights of Women”

Origin of Human Rights

- ✦ The horrors of Nazi Germany reaffirmed the basic idea of universal human rights
- ✦ Human rights came into its own over the last 55 years

Human Rights Definition: Five Basic Components

1. Human rights represent demands of individuals and groups for the sharing of power, wealth and other values. Respect, reciprocal tolerance, and mutual forbearance are fundamental to human rights.
 - Human rights limit state power; states, through the rule of law, protect the rights of individuals but do not convey or endow rights of individuals

Human Rights Definition: Five Basic Components

2. Human rights partake of both legal and moral orders; they express both the “is” and the “ought” in human affairs
 - Example of “is”: Legal proscription against torture
 - Example of “ought”: Rights in social, cultural, and economic domain

Human Rights Definition: Five Basic Components

3. Human rights are universal, equally possessed by all humans everywhere

Human Rights Definition: Five Basic Components

4. Human rights are qualified by the limitation that the rights of any particular individual or group are restricted as much as is necessary to secure comparable rights of others
 - Sometimes designated as *prima facie* rights

Human Rights Definition: Five Basic Components

5. Human rights refer to *fundamental* rights as distinct from *nonessential* claims or goods
 - Some would limit human rights to core rights to life and equal freedom of opportunity and rule out “mere wants”

Role of Human Rights

- ✦ “While knowing the rules does not assure victory, the more they are known, the more likely they can protect those in greatest need”

— *J. Paul Martin, Executive Director
Center for the Study of Human Rights
Columbia University*

Role of Human Rights

- ✦ The more we can communicate the rules that govern relationships between states and oversee the obligations of states to their citizens, the more opportunity we have to advance the rights of people everywhere



JOHNS HOPKINS
BLOOMBERG
SCHOOL *of* PUBLIC HEALTH

Section B

The United Nations and International Human Rights Laws

Formation of the United Nations

- ✦ Formed after World War II, where more than 60 million people were killed (about 6 million Jews in the holocaust)

United Nations Charter

- ✦ *United Nations Charter* signed on June 26, 1945; which entered into force October 24, 1945
- ✦ ...”to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of nations large and small,” ...

United Nations Charter

- ✦ ...”to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends, to practice tolerance and live together in peace with one another as good neighbors”...

United Nations Charter

- ✦ Generated a spirit of optimism and many believed that humans had learned the bitter lessons of intolerance
 - and were ready to embrace a new era of giving full recognition to human rights

Universal Declaration of Human Rights

- ✦ Adopted by United Nations General Assembly on December 10, 1948
 - Represented aspirations of founders of the United Nations
 - Staked out domain for human rights

Article 3

- ✦ Everyone has the right to
 - Life
 - Liberty
 - And security of person

Article 22

- ✦ Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality

Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care, and necessary social services

Article 25

- ... and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control

Article 25

2. Motherhood and childhood are entitled to special care and assistance
 - All children, whether born in or out of wedlock, shall enjoy the same social protection

United Nations Covenants

*UN proposed two covenants on
December 16, 1966*

1. International Covenant on Economic, Social, and Cultural Rights (not ratified by USA)

United Nations Covenants

2. International Covenant on Civil and Political Rights signed by USA
 - Gave people the freedom to vote, freedom of free movement, and freedom of assembly

United Nations Covenants

- ✦ Several rights in the International Covenant on Economic, Social, and Cultural Rights are relevant to refugee and displaced populations, e.g. Article 12

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Article 12

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - a. The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child

Article 12

- b. The improvement of all aspects of environmental and industrial hygiene

Article 12

- c. The prevention, treatment, and control of epidemic, endemic, occupational, and other diseases

Article 12

- d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness

Human Rights Laws and Displaced Populations

- ✦ The International Covenant on Economic, Social, and Cultural Rights has given the world community the implicit obligation to protect and defend refugee populations
- ✦ States that have signed this covenant have an obligation to protect and assist Internally Displaced Persons
- ✦ The realities of mass displacement are incompatible with human rights laws



JOHNS HOPKINS
BLOOMBERG
SCHOOL *of* PUBLIC HEALTH

Section C

Role of Health Workers and Human Rights Groups

Health and Human Rights

- ✦ Health professionals are often among the first witnesses of the physical and psychological harm that human rights violations cause to individuals and communities
 - Executions
 - Mutilations
 - Forensic examinations

Health and Human Rights

- ✦ Health professionals exposed to complications and consequences of lack of food, security, decent shelter, etc., become advocates for affected populations without directly relating it to human rights

Health and Human Rights

- ✦ For the past thirty years, the health care community has mobilized itself to
 - Protest violations of human rights
 - Document their health consequences
 - Examine its own role in perpetrating or ending these abuses

Human Rights Violations by Health Professionals

- ✦ Situations where health professionals have been complicit with gross human rights violations

Human Rights Violations by Health Professionals

- ✦ District Surgeons in South Africa watched Steve Biko die of wounds inflicted during torture
 - Exposed by Wendy Orr

Human Rights Violations by Health Professionals

- ✦ Chilean physicians complicit in torture of victims
 - Four physicians later stripped of membership in Colegio Medico, ending their ability to practice

Human Rights Groups

- ✦ Several human rights groups have emerged
 - Amnesty International
 - Human Rights Watch
 - *Medecins Sans Frontieres*
 - Physicians for Human Rights
 - Lawyers Committee for Human Rights

Physicians for Human Rights

- ✦ The mandate of PHR is largely defined by the rights enunciated in the Universal Declaration of Human Rights and subsequent conventions and protocols

Physicians for Human Rights

- ✦ PHR also uses Geneva Conventions of 1949 and Additional Protocols of 1977, which further define:
 - The protections and guarantees of medical neutrality
 - The protection of patients and health professionals
 - The right to access to care and humane treatment of civilians

Origin of Geneva Conventions

- ✦ In 1870, the Battle of Solferino in Northern Italy left many wounded and dying soldiers without aid
- ✦ Henry Dunant, shocked by sight, on his return to Geneva called three colleagues and together formed the ICRC and articulated the first Geneva Convention

Geneva Conventions

1st Convention	Medical aid for wounded combatants and medical neutrality of participants
2nd Convention	Extended aid to sailors wounded in naval battle
3rd Convention	Protection and medical care for prisoners of war (POWs)
4th Convention	Protection and medical care for civilians in armed conflict

Additional Protocols of 1977

- ✦ Four Additional Protocols later formulated and verbally honored by all nations
 - Frequently breached, e.g. the Balkans

PHR Philosophy

- ✦ The decision to create an organization of health professionals to work on behalf of human rights arose from two insights

PHR Philosophy: First Insight

- ✦ “First was the recognition that many human rights violations had significant health consequences, which include:

PHR Philosophy: First Insight

- Physical and psychological trauma of individual victims of violence, torture, and rape
- Breaches of medical neutrality
- Forced deportations
- Use of indiscriminate weapons
- Mass executions and other violent acts that affect entire populations
- ...

PHR Philosophy: First Insight

- ✦ ... the purposeful destruction of health facilities and essential civilian infrastructures leads to slower forms of death
 - From epidemic infectious disease
 - Untreated chronic disease
 - Or starvation”

PHR Philosophy: Second Insight

- ✦ Health professionals are uniquely situated to collect the medical documentation that provides concrete evidence of human rights violations
 - This ranges from physical examination of individuals to forensic exhumations of mass graves
 - PHR members H. Jack Geiger and Robert Cook-Deegan

PHR Methods of Work

- ✦ PHR conducts direct documentation through fact-finding missions (sent over 100 missions to 48 nations)
- ✦ Provides advocacy
 - Reports, journal articles, press releases
 - Meetings with foreign government officials, U.S. state department
 - Letter-writing campaigns
 - Coalition-building

PHR Methods of Work

- ✦ PHR led the coalition to ban landmines, which led to the international law to ban landmines
 - Signed by over 100 countries (not U.S.)
 - PHR shared Nobel Peace Prize in 1998 with Jody Williams and five other NGOs

PHR Methods of Work

- ✦ PHR conducts education and training and responds to challenge of making international human rights relevant to the health professional



JOHNS HOPKINS
BLOOMBERG
SCHOOL *of* PUBLIC HEALTH

Section D

***Application of Human Rights
Principles to Developing Policies
and Procedures for Managing CHE***

Assessing Human Rights Impact

- ✦ Guidelines for assessing human rights impact of any proposed policy or intervention have been developed by Lawrence Gostin and the late Jonathan Mann

Assessing Human Rights Impact

Clarify the Public Health Purpose

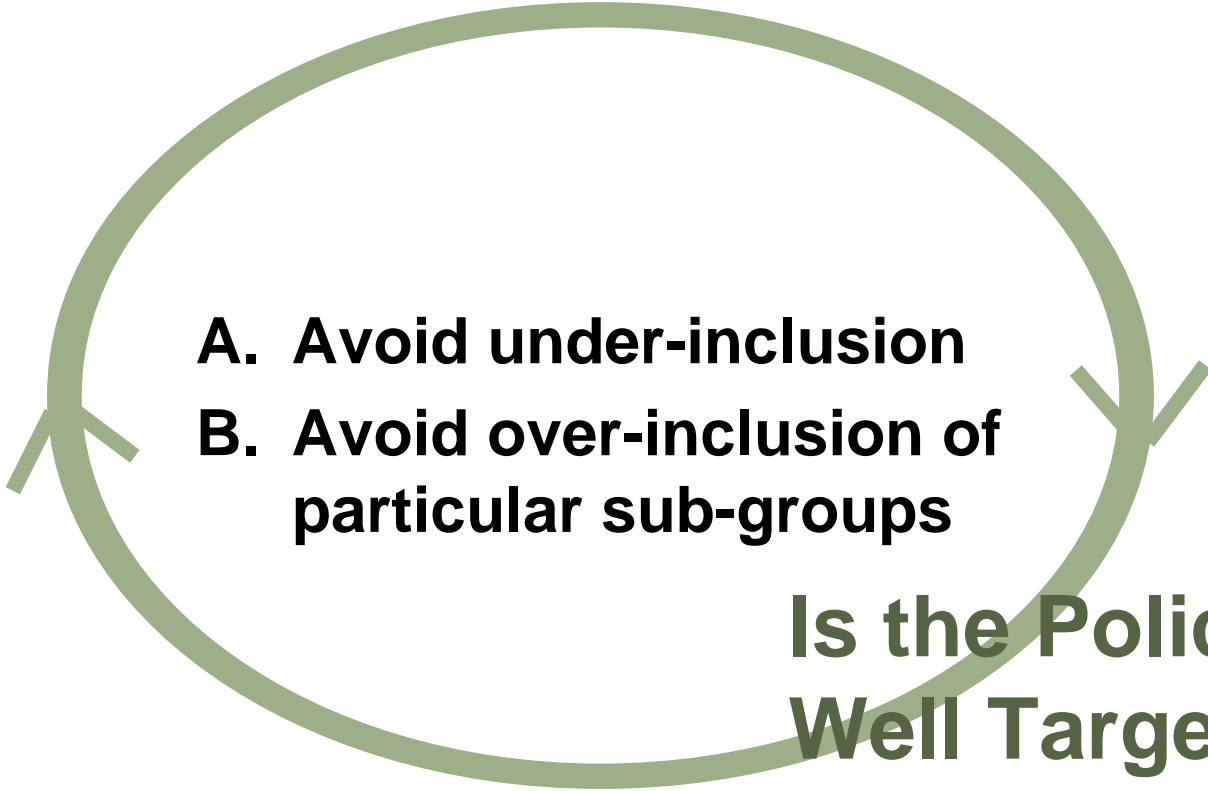
- A. What are we trying to do?**
- B. Are we trying to prevent continuation of abuses?**
- C. What is the purpose of preventing epidemics?**

Assessing Human Rights Impact

Evaluate Policy Effectiveness

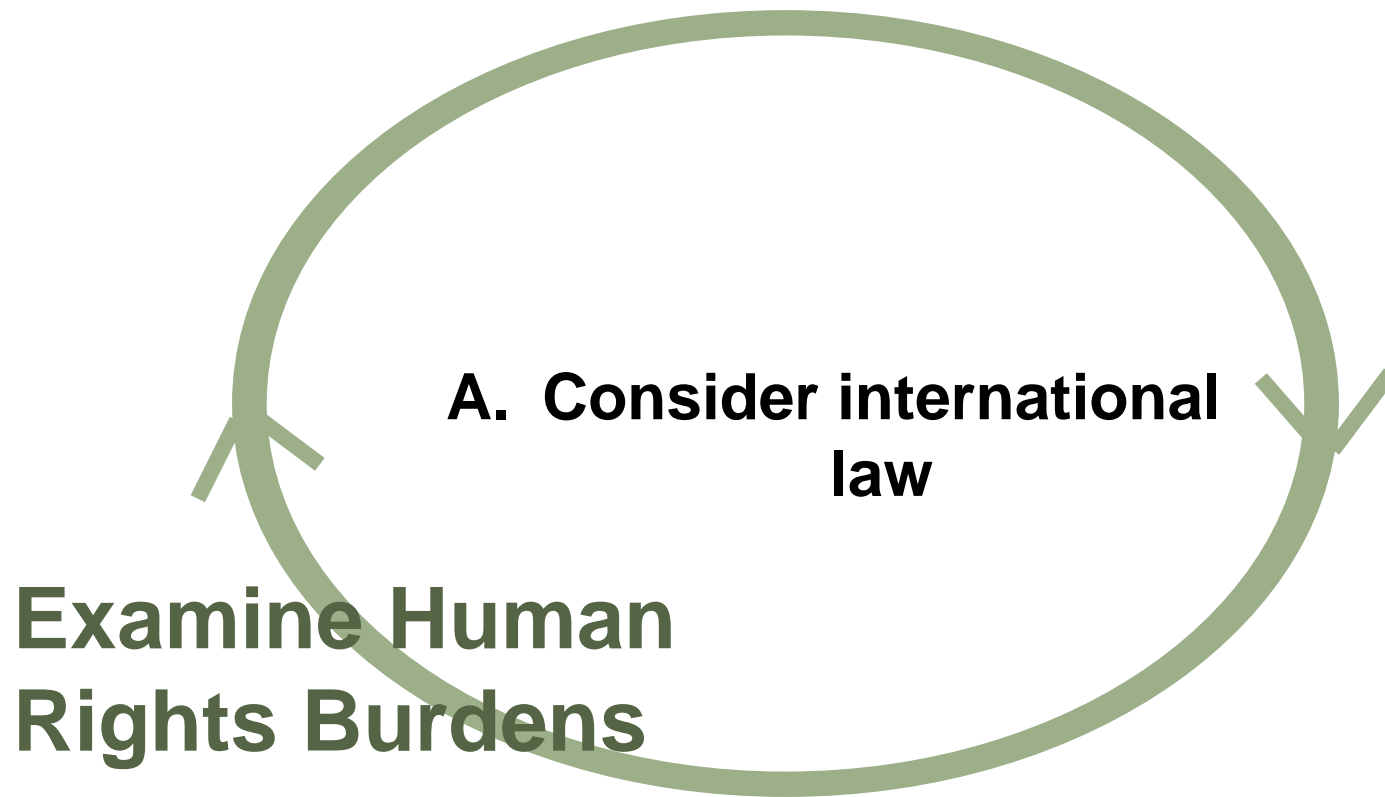
- A. Is magnitude well defined?**
- B. Will intervention work?**
- C. Consider alternatives?**

Assessing Human Rights Impact

- 
- A. Avoid under-inclusion**
 - B. Avoid over-inclusion of particular sub-groups**

**Is the Policy
Well Targeted?**

Assessing Human Rights Impact



Assessing Human Rights Impact

Human rights divided into two categories:

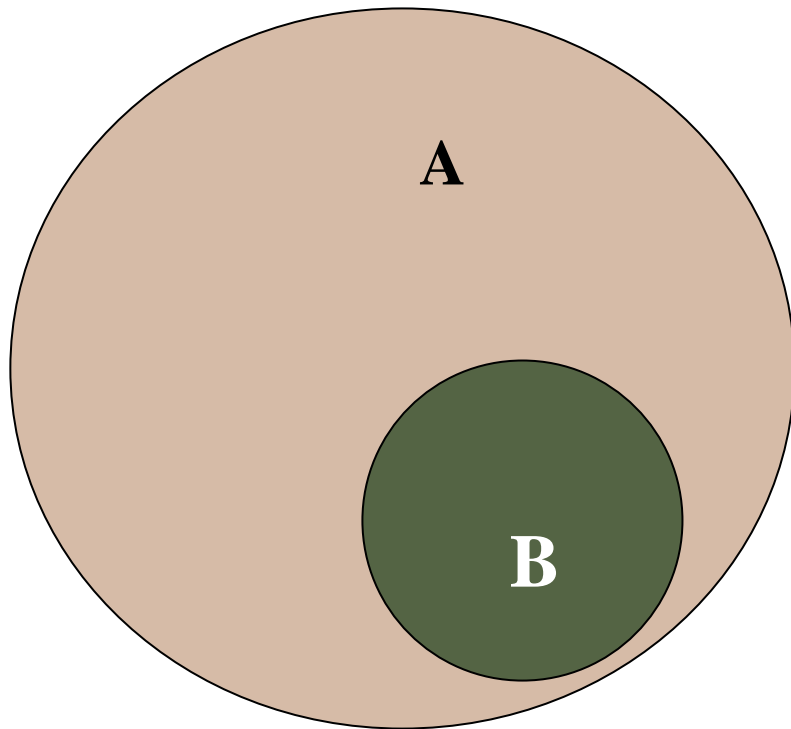
1. Derogable rights: Can be temporarily suspended—e.g., freedom of movement can be removed during epidemics
2. Nonderogable rights: Constant—e.g., freedom of speech, freedom from torture

Assessing Human Rights Impact

Is Policy Least Restrictive Alternative?

- A. Does it preserve maximum freedom for target population**
- B. If a coercive measure is most effective and least restrictive, confirm it reduces a “significant risk” of harm**
- C. If coercive measures are essential, then guarantee fair procedures**

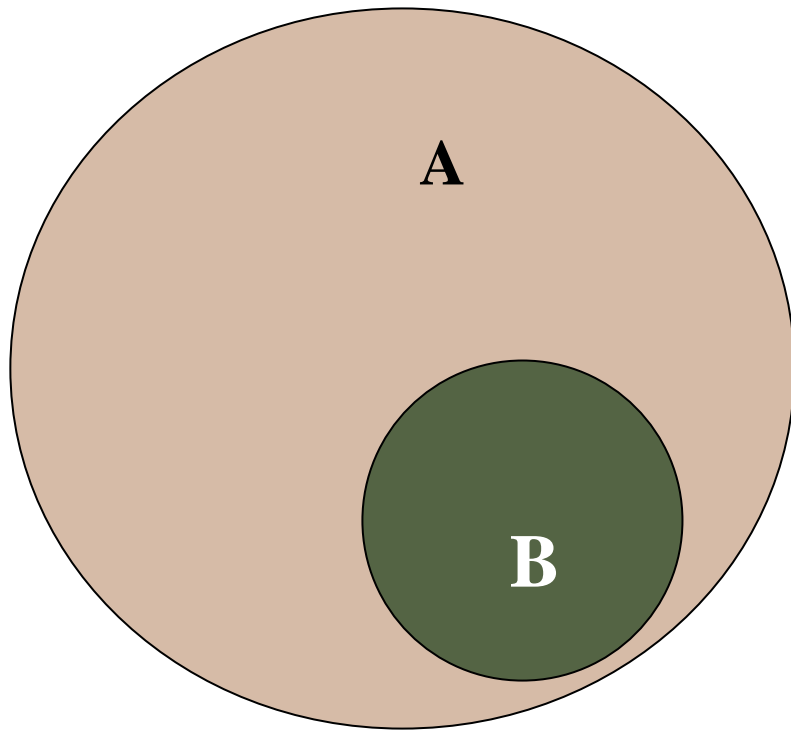
Permissible Under-Inclusion



Population A = All adolescents at risk for STDs and unwanted pregnancy who could benefit from sex education and counseling

Population B = All adolescents in institutional settings—e.g., prisons, foster homes, and mental hospitals

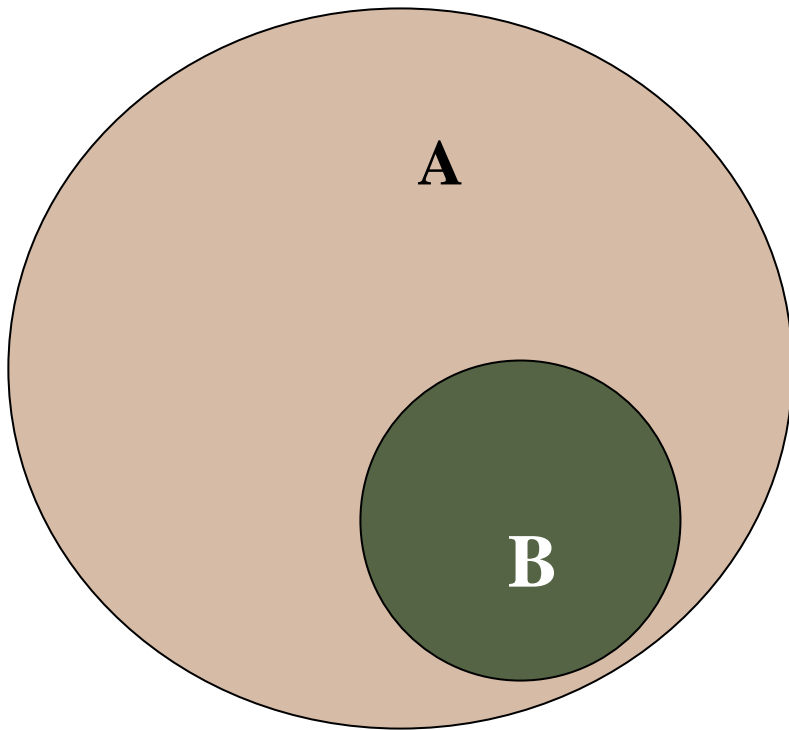
Permissible Under-Inclusion



Proposed policy:
Provide
comprehensive sex
education and condom
distribution only to
Population B

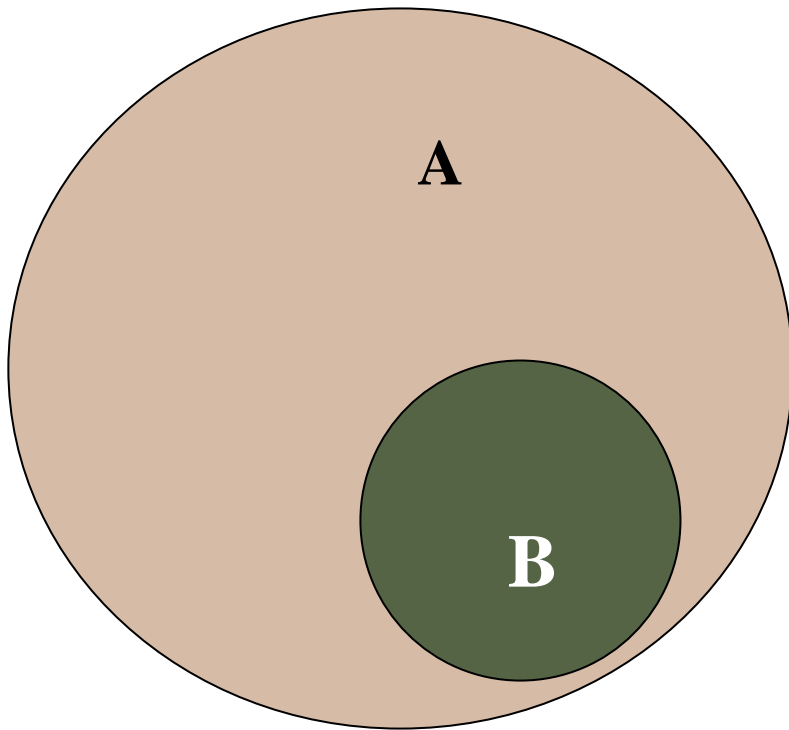
**Permissible since B
represents subset of
vulnerable population
at higher risk**

Impermissible Under-Inclusion



Proposed policy:
Isolation during active phase of tuberculosis and DOT during the entire course of treatment of persons in Population B

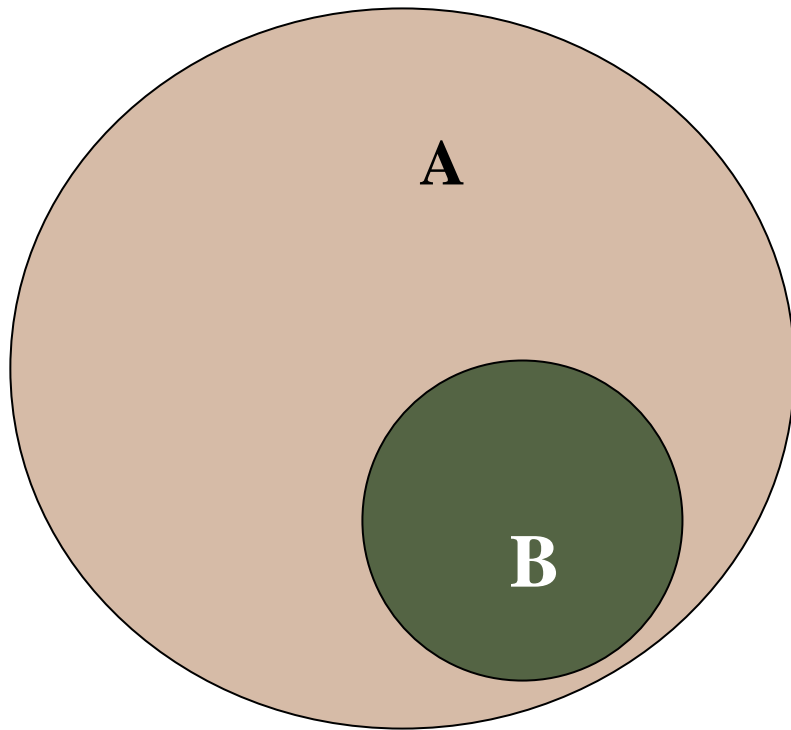
Impermissible Under-Inclusion



Population A = All persons diagnosed with active tuberculosis

Population B = All persons without a permanent address diagnosed with active tuberculosis

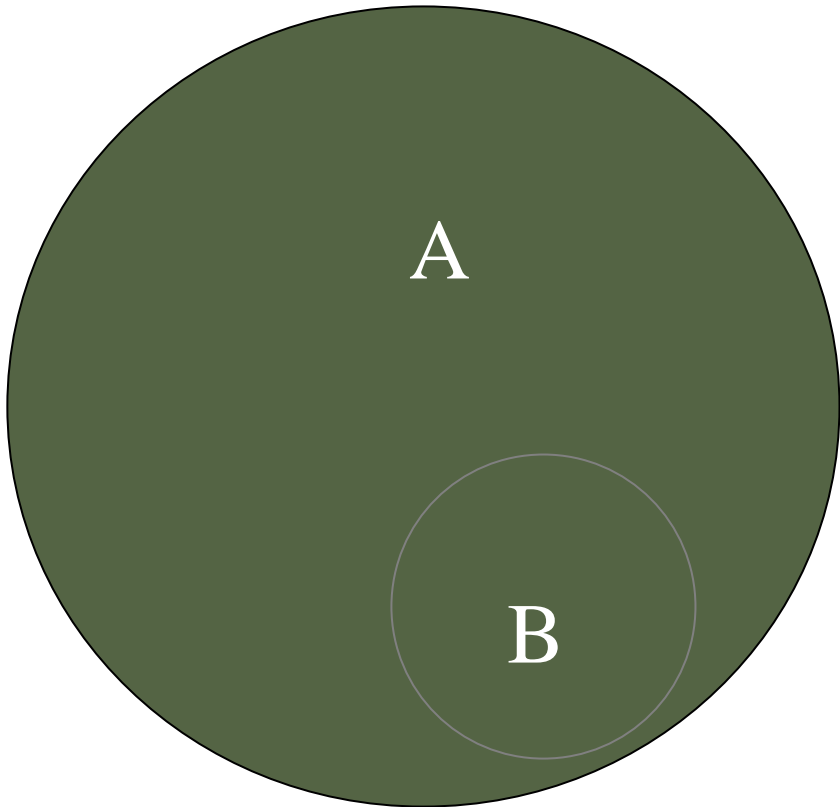
Impermissible Under-Inclusion



Proposed policy:
Isolation during active phase of tuberculosis and DOT during the entire course of treatment of persons in Population B

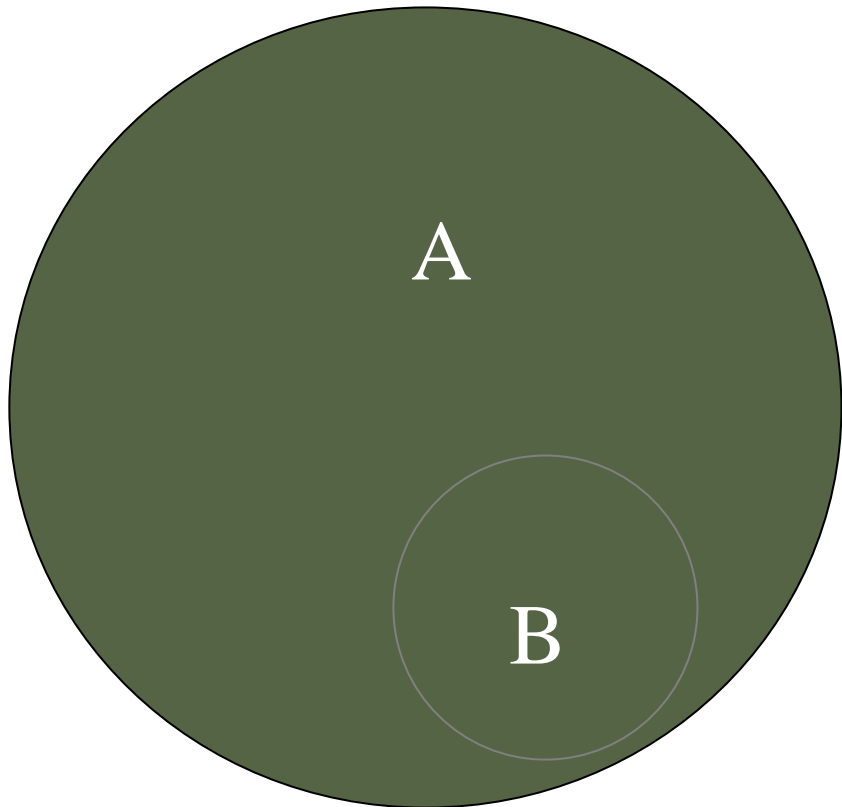
Policy not permissible since *anyone* with active TB needs DOT to get maximum benefit of treatment

Over-Inclusion



Proposed policy:
Quarantine of all
HIV-positive
persons in the
country

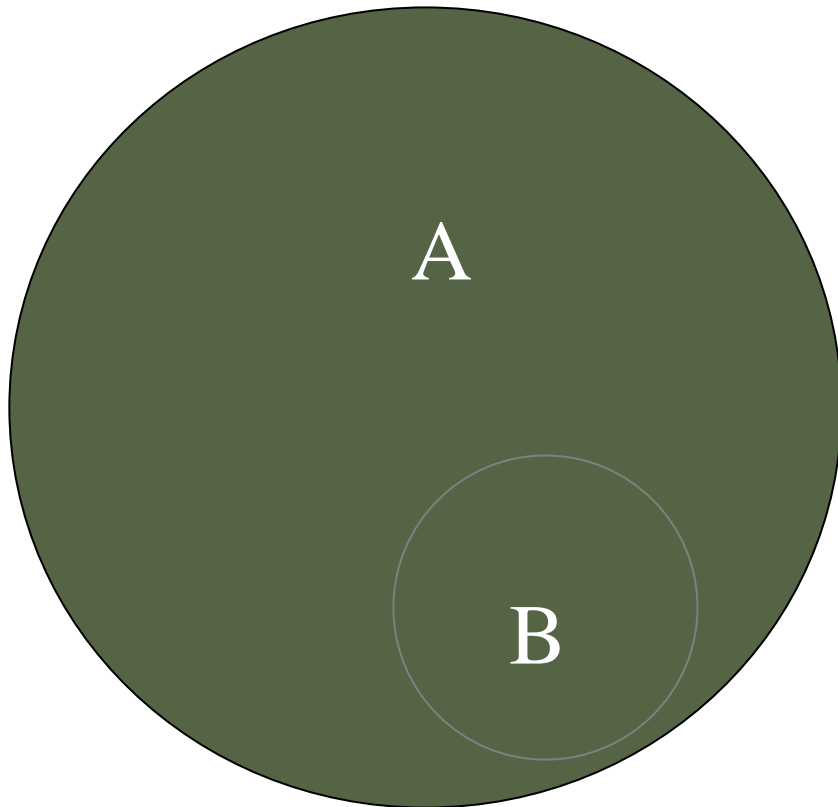
Over-Inclusion



Population A =
All persons with
HIV in the country

Population B =
All persons with
HIV who engage
in high-risk
behavior

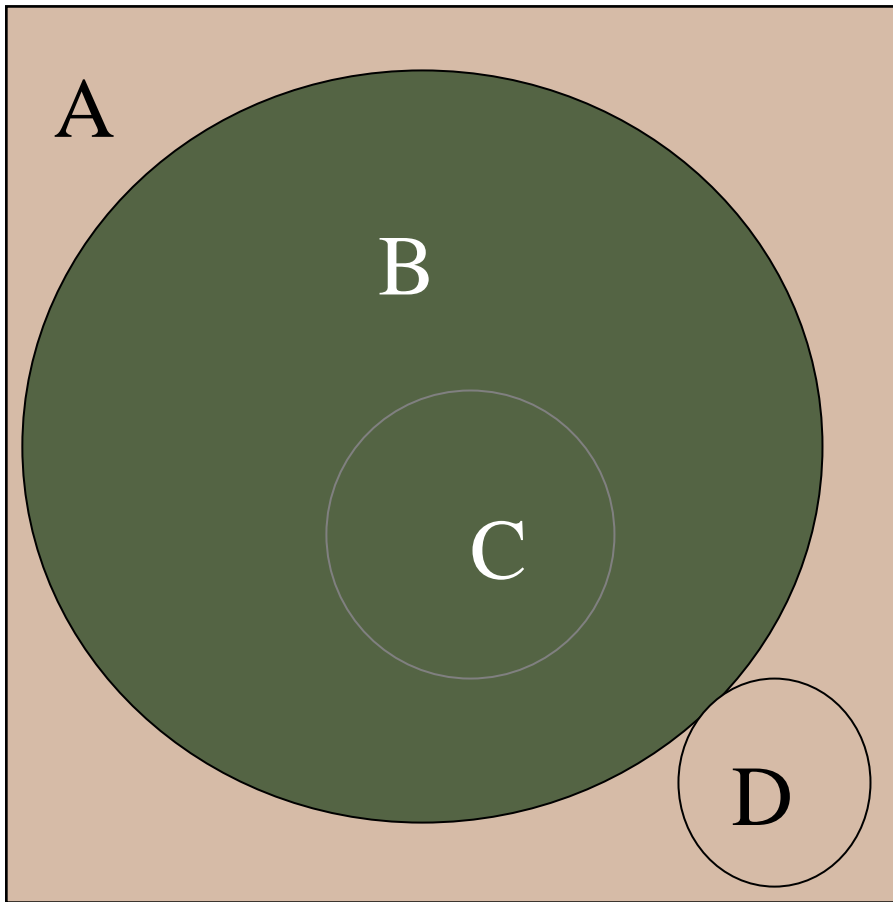
Over-Inclusion



Proposed policy:
Quarantine of all
HIV-positive persons
in the country

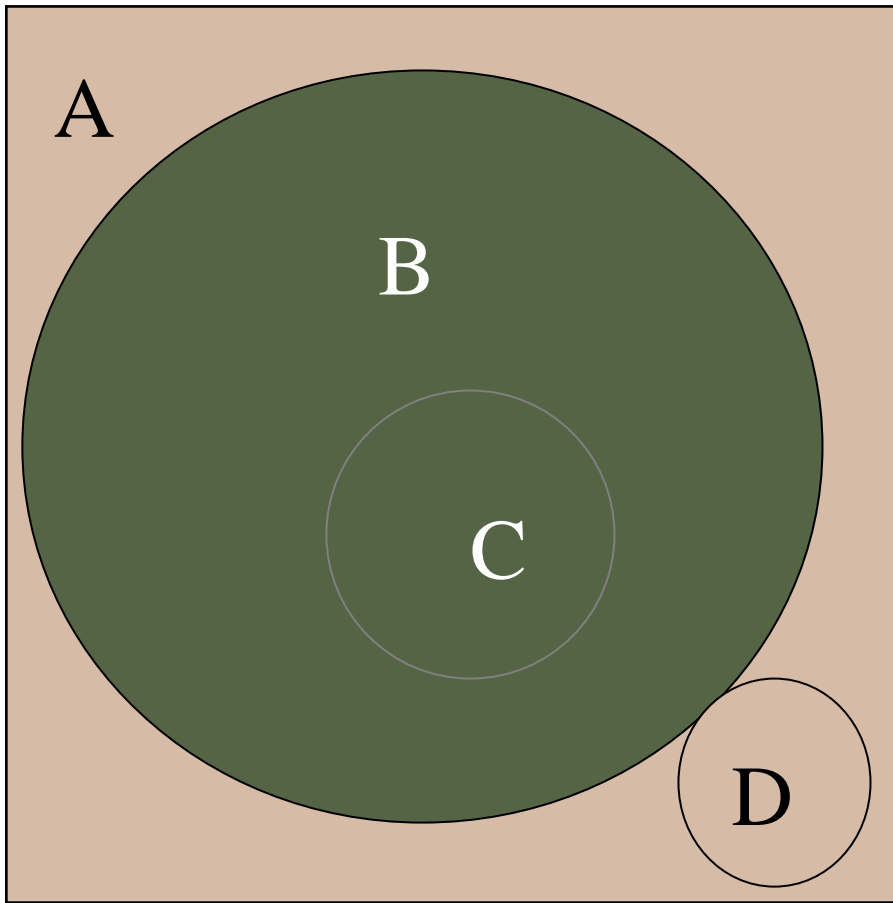
**Inappropriate uniform
application of a policy
that should only
target the high-risk
population**

Under and Over-Inclusion



Proposed policy:
Screening and
excluding those who
test positive for HIV
infection, targeted to
Population B only

Under and Over-Inclusion



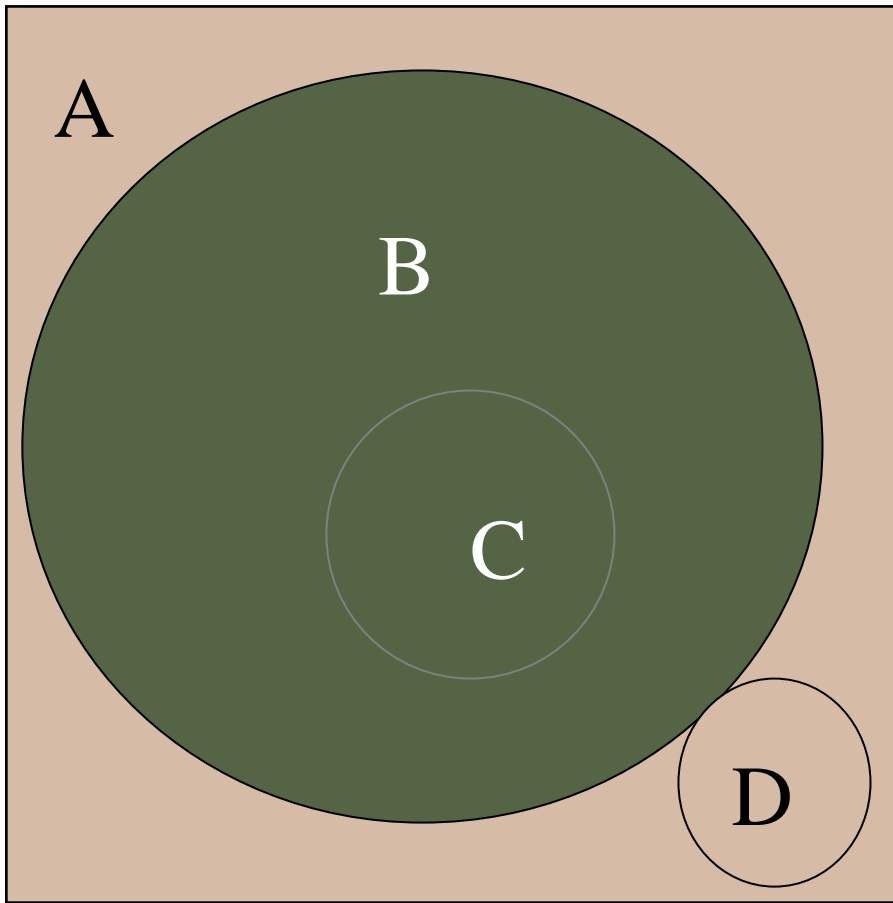
Population A = All foreigners entering the country

Population B = All foreigners from Region X

Population C = All foreigners from Region X with high-risk behaviors

Population D = All foreigners from outside Region X with high-risk behaviors

Under and Over-Inclusion



Proposed policy:
Screening and excluding those who test positive for HIV infection, targeted to Population B only

Under-inclusion is D
Over-inclusion is B;
Policy should only target Populations C and D

Challenges of Refugees with Regard to Human Rights

- ✦ Displaced people vulnerable to many problems: Lack of shelter, food, health, etc.
- ✦ Problems compounded by breakdown of rule of law, power struggles within displaced population
- ✦ Under threat from abusive government
- ✦ Needs for human rights protection greater than for stable population

AIDS Epidemic a Human Rights Challenge

- ✦ Early AIDS victims included homosexuals, IV drug users, and their partners
 - All marginalized and stigmatized
 - Vulnerable to neglect, abuse by society
- ✦ Negative comments
 - “They deserve what they get”
 - “God’s retribution for sinful acts”

Linking Health Status to Human Rights

- ✦ In a situation where a disease can spread more easily in a marginalized population whose rights have been systematically denied, poor health status and failure to protect and recognize human rights are directly linked

Linking Health Status to Human Rights

- ✦ While refugees differ from early AIDS victims, they are often marginalized, have same vulnerability to disease, same difficulty in access to basic needs
- ✦ Direct link between special needs of refugees and special attention to protecting their human rights

Human Rights Web Sites

- ✦ www.un.org
- ✦ www.hri.org
- ✦ www.hrw.org
- ✦ www.phrusa.org
- ✦ www.hrweb.org
- ✦ www.ai.org