Best practices in public health legislation and policy for promoting healthy diets

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Introduction

- NCD’s a health concern globally and in South East Asian Region
- Stewardship role of Ministry of Health in relation to the health system
- Some legislative approaches
- Case study on taxes on sugar sweetened beverages
- Importance of country context
Global emerging issue

- Nearly 2 out of every 3 deaths globally are caused by chronic, non-communicable diseases (NCD’s)
- Cardiovascular disease, cancer, diabetes and chronic lung diseases
- Causes are well established
- Tobacco use, harmful use of alcohol, obesity, lack of physical activity, excess salt, sugar and saturated fats in the diet
Affects productivity and growth

- About one quarter of the deaths occur before the age of 60
- Undermining productivity, and economic growth, especially in low and middle income countries where 80% of all deaths occur,
- they occur at a younger age, where safety nets are fragile or absent where treatment costs are prohibitive
Ministry of Health

- The Ministry of Health is steward of the health system
- It has a central role in health system governance
- The MoH gives effect to government policy and serves the Minister
- As the repository of expertise in health it also advises the Minister and suggests and guides policy review and reform
- It undertakes policy making and planning
- It enters partnerships with non state health service providers, is influenced by non government organizations (NGO’s), faith based organizations, the media and the community
Stewardship

- National stewardship for health has been defined by the World Health Organization as
  
  ‘the careful and responsible management of the wellbeing of the population’

- It is the responsibility of government

- In embracing stewardship of the health system, the responsible MoH must ensure the health sector is properly governed at national and sub-national levels based on government policy, legislated functions and duties, and applicable domestic and international standards and values.

- It must also reach out and involve all parts of the health system of which it is steward.
Health responsibility outside the MoH

- Health is not the sole responsibility of the Ministry of Health.
- Many functions and powers with effects on population health or the health system are the responsibility of portfolios other than health.
- Taxation laws, finance laws, planning laws and trade laws.
- All these can affect the health system and population health.
MoH is steward of the health system and interacts with all other parts.

Through minister receives government directives and influences cabinet to support laws to strengthen the health system and address priorities.

MoH undertakes planning and both implements and develops health policy.

Influences other portfolios in matters which affect health.

Recieves influence from civil society groups, advocacy groups, media.

Partnerships with non state health service providers.
Law as a tool for health system strengthening or reform

- Increasing (and welcome) focus on the potential of law as a tool to address health system issues
- Many legal interventions are being developed and considered
- Real potential to be useful
- Not enough thinking about country context
- Lots of failure to make the case for law reform outside the health portfolio
- Lots of cutting and pasting of ideas and laws from one country to another
- Lots of reforms which ultimately fail to support health system strengthening or reform
- Lots of laws which are not implemented
Possible policy interventions

- Promote healthy diet
- Strengthen national food and nutrition polices and action plans
- Promote and support exclusive breastfeeding for the first 6 months of life
- WHO’s recommendations on marketing of foods and non alcoholic beverages to children
Possible policy interventions

- Reduce level of salt/sodium in prepared or processed food
- Increase availability, affordability and consumption of fruits and vegetables
- Replace trans fats with unsaturated fats
- Reduce saturated fatty acids in food and replace with unsaturated fatty acids
- Reduce free and added sugars in food and non alcoholic beverages
- Reduce impact of marketing of foods and non alcoholic beverages to children
Possible policy interventions

- Adapt and implement national guidelines on physical activity for health
- Develop policy measures to promote physical activity through active transport, recreation, leisure and sport
- Planning measures about including parks and sports areas in new developments
- Public campaigns and social marketing about benefits of physical activity
Possible policy interventions

- Adopt settings based approaches
- Cities, islands, villages, workplaces, communities, schools, clinics, hospitals
- Offer healthier dietary choices
- Enabling environments for physical activity
What is regulation?

An OECD definition of regulation is useful.

- The full range of legal instruments by which governing institutions, at all levels of government impose obligations or constraints on private sector behaviour, Constitutions, parliamentary laws, subordinate legislation, decrees, orders, norms, licences, plans, codes and even some forms of administrative guidance can all be considered as “regulation”

- OECD (1997)
Some types of legal/regulatory interventions

- Taxation on unhealthy products such as sugar sweetened beverages
- Labeling requirements on food eg “traffic light” system
- Banning of some foods such as lamb flaps/turkey tails
- Restrictions on places of sale eg schools, hospitals
- Advertising restrictions on timing and content of advertising
- Planning laws requiring parks and sports facilities in new developments
- Health impact statements
- Power for Ministerial Declarations about certain NCDs which triggers power to issue orders for preventive actions
Multi sectoral- example soft drink policy – Pacific case study

- Analysis of four different soft drink taxes in four Pacific countries
- Soft drink taxes typically thought of as health interventions
- Agency responsible for sponsoring reform and policy implementation is ministry of finance or department responsible for taxation revenue
- These agencies primary concern is revenue raising
- Key component in agenda setting in case studies is contribution of the tax to the government budget
Ministry of Health

- Promotion of health may initiate discussion
- MoH may play an advocacy and information role
- Minister may raise the idea of the tax in Cabinet or at executive level
- Taxes were higher in countries where tax was proposed as a health related measure
- Alternatives (to SSB’s) exist offsetting issue of regressive nature of food taxes
Industry key opposition

- Key opposing advocacy coalition
- Many countries have soft drink importers
- In Fiji the organised industry opposition to the domestic tax resulted in its removal
- Role of industry in opposing taxation been observed in other countries particularly the USA
- Some challenges come from trading partners under trade agreements and treaties
Importance of multi-sectoral approach

- Findings suggest shaping the tax to suit the priorities of health and finance can facilitate uptake
- E.g. allow level of tax to be driven by revenue related priorities of Ministry of Finance
- Align the tax with MoH priorities and with diabetes prevention and control (for example)
- Cross sectional advocacy coalitions appear to be critical
How a Kit Kat is classified as healthy

- Food companies are advertising products such as Kit Kats and Coco Pops to children because they are classified as healthy by their own nutritional standards.
- A NSW Cancer Council analysis found that 63 per cent of food that appeared in television advertisements was considered unhealthy under Food Standards Australia New Zealand nutrient profiling.
- Researchers analysed food advertisements that appeared on television between 6am and 9pm over a two-week period.
- They found that companies which had signed up to an industry-regulated marketing code were still advertising food that would be considered unhealthy by government standards.
Study Results

- Study author Clare Hughes said food companies had set their criteria low enough that it allowed junk food such as Tiny Teddies, Smarties, Kit Kats and Coco Pops to be advertised to children.
- The advertised sugar content for Coco Pops was based on a 30g serving, which was a much smaller amount than many people would pour into their bowl.
- Mandatory regulation according to government standards would be much more effective at reducing the advertising of sugary and fatty foods than self-regulation, she said.
- "Thirty-nine per cent of food advertisements that met the companies' own criteria [for healthy food] failed the government's criteria," Ms Hughes said.
- 'The voluntary initiatives can be a bit of an advertising spin in themselves.
Real World Expectations of Reform

● Reform of any kind is a complicated exercise.

● Experiences in many countries suggest that ministries of health succeed in achieving one big reform every three to five years with some additional smaller reforms.

● This makes it crucial to be realistic about planned reforms.

● To prioritise and to acknowledge that a crowded reform agenda will not succeed.
Country - self assessment

- Structure of the legal system?
- National and subnational government?
- Lawmaking powers at each government level
- What is there already?
  - Treaties/trade agreements?
  - National public health law?
  - Food law?
  - Taxation laws
  - Planning laws?
  - Local lawmaking powers?
  - Customary laws
Is law or regulation an effective intervention?

- Countries of South East Asian Region are very different
- Context is everything
- The legal system, currently existing laws, health priorities, health planning, politics, the economy, the strength of the health minister, the electoral cycle
- Just some of the factors which will make a very big difference
Health system - self assessment

- Top 3 health priorities
- What does health plan say about priorities?
- Are relevant laws or lawmaking responsibility administered by health portfolio?
  - I.e. finance, customs, planning, provincial and local government affairs
- If not, what strategies exist for working with relevant portfolio to achieve the law reform including any financing and implementation requirements?
ASSESSMENT OF SYSTEM ALIGNMENT

- For a system to work well, it is ideal for its health plan, budget and system structure to be aligned.
- Laws often establish health system structure, so an important question to ask in a review is whether the laws currently support the alignment of health system structure, planning and budgeting.
- Has the country developed a Medium Term Expenditure Framework which is tied to health system priorities as identified in the national health plan?
- In any reform, how is health planning and health financing being aligned to support the reform?
Assessment of current use of laws

- How are laws currently being used?
- Are duties respected?
- Do inspections and monitoring occur?
- Are there prosecutions of breaches?
- Are there officers charges with responsibility to inspect, monitor, inform, trace contacts, gather data, guide?
- If the country already has laws which are ignored or not implemented, then expectations for new laws may not be high
Assessment of people affected by the laws and their engagement with laws generally

- Do people know about rights and responsibilities under laws?
- Are people living in cities or concentrated in rural areas?
- Are literacy levels high or low?
- Are people in formal employment or subsistence agriculture?
- If people are mainly buying food in markets, labeling laws and taxation laws may not be much help
- Customary laws or local laws may help
- Customary laws for village health being considered in Bougainville
Customary laws and religious laws

- Customary laws about food preparation in the village
- Customary laws about communal eating
- Customary laws about access to certain types of food
- Religious laws about food and eating
- In Bougainville consideration is being given to the use of a community standard which is adapted in consultation with local government health officers and applied differently as adopted by local chiefs
Agency and donor involvement

- Law Reform Commission
- Sometimes a reference is made for a review of the law
- Donor assistance
- Paris Declaration on Aid Effectiveness (2005), the ACCRA Agenda for Action (2008) and the Busan Partnership for Effective Development Cooperation (November 2011)
- Aid should be aligned to country priorities
Implementation

- Implementation may need one off funds to establish a board or train a cohort of workers in a new skill.
- Examples of a need for recurrent funding include a reform that leads to a change which requires ongoing funding,
  - Funding for premises and staff of a board/committee
  - mandate to inspect or monitor compliance with a new law
  - Tribunal/court to hear complaints about new offences
Broader reform agenda

- What else is the MoH trying to do?
- Are there any other ambitious reform priorities?
- What about the country as a whole? Is there a reform agenda likely to distract politically or to affect allocation of resources?
- What is the election cycle?
- New governments also have new priorities and a review may be shut down
- What is the budget cycle?
Stability

- How stable is the country?
- In the South East Asian Region, the stability of member countries varies
- Stability has obvious implications for the potential success and sustainability of law review and reform
Consultation and engagement with civil society

- How organised and involved is civil society?
- Are there NGO’s operating in relevant areas?
- Community organisations and faith based groups with which the government may consult in considering a review?
- It very much depends on the nature of the review as to who is consulted, but a system wide review would attract system wide consultation
Affected corporations

- Are there corporations which would be likely to have an interest in any proposed reform?
- If so, any consultation strategy will need to consider their view
- Sometimes corporations are strongly opposed to law reforms which may affect their corporate activities and interests.
- Consideration should be given to this possibility and a management strategy developed.
- In the area of food, it is possible that multinational food corporations to be affected by proposed laws and to lobby and campaign robustly to protect their interests.
Conclusion

- NCD’s are a Health system issue
- Strength of health system matters
- Laws are a useful tool for health system strengthening and as a targeted intervention to support better nutrition policies
- Alignment with other agencies such as Ministry of Finance makes success more likely
- Country context is absolutely critical in undertaking successful law reform
- Need to consider engagement with civil society and managing a response to affected corporations
- Need reforms to be aligned with health system priorities and budget
- Planning and resources for implementation critical
Introduction

- Broader legal environment
- Public Services (Management) Act
- Public Service General Orders
- Gender Discrimination
- What rights belong to public servants?
- What responsibilities belong to Departmental Heads, Managers and Supervisors?
Questions
Comments
Discussion