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Commentaries. Legislation. Children. Obesity

Standing up for children's rights in Latin America



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Editor's note

These series of commentaries on protecting the health of children in Latin America are published in the month of the triennial conference on nutrition in Latin America, being held between 11 and 17 November in Havana, Cuba. They also look forward to a special meeting to address the crisis of childhood obesity throughout the Americas, being held in Mexico City on 25-26 November. The commentaries, commissioned by Enrique Jacoby, report progress and identify problems in Mexico, Brazil, Costa Rica and Chile.

Overview



All over the world, sugary ultra-processed products are promoted vigorously to children, in ways that parents and public interest groups find troublesome

A recent editorial in this journal welcomes the actions of New York City mayor Michael Bloomberg to protect public health. These include the announcement of the ban on the sale of super-sized cola and other sugared soft drinks containing 16 ounces or more in places under the jurisdiction of the City. The editorial says that mayor Bloomberg 'seems to be the one and only potent legislator who understands that all significant improvements in public health involve the use of law, and that there are no exceptions to this rule.'

All credit to Mayor Bloomberg. But no, he is not alone in the Americas. Below the Rio Grande, in Latin America, other democratically elected leaders, together with

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government officials, lawyers, civil society and health professional organisations, are also getting serious about the obesity epidemic that now afflicts the entire American hemisphere. They have decided to stand up for the rights of children, and to call on governments to do their duty to protect public health and the common good.

Statutory regulations designed to control the very rapid rise of overweight and obesity among children are now being considered or are in the process of being enacted, in seven Latin American countries: Mexico, Brazil, Costa Rica, Chile, Peru, Ecuador and Uruguay. The commentaries here report on progress and obstacles in four of these countries.

National initiatives in Latin America are not yet part of a concerted plan, and they need to be. This month, 25-26 November in Mexico City, policy-makers and leading health professionals and civil society leaders are meeting to exchange experiences, network and plan together, under the auspices of the National Institute of Public Health of Mexico, the National Institute of Nutrition and Food Technology of Chile, and the Latin-American Parliament. More details are in Box 1, below.

Obesity is out of control

For the last quarter of a century, the increase in overweight and obesity at first in North America, and then also in Latin America, has been graphically depicted by epidemiologists and public health professionals as irresistibly rising lines on graphs. Year after year, paper after paper, conference after conference, the upward trajectory has been projected again and again, to the point that readers and listeners have been numbed into boredom.

It is safe to say that the biological and molecular aspects of obesity are now well understood, and the topic has become an increasingly rich mine for researchers. But the epidemic, which is actually now pandemic, remains out of control. There is also an enormous and burgeoning literature on the prevention and control of obesity, but so far obesity is not being prevented and is not being controlled. Thus we are confronted by a gigantic public health crisis. Obesity is a cruel condition, especially for children and young people: but worse, it is causally related to disabling and deadly diseases, including diabetes, heart disease, and common cancers.

Yet much is known about what drives obesity, from the various perspectives of history and environmental sciences (1), agriculture (2) and economics (3,4). Most striking is how the rise in obesity runs parallel with the rise in production of junk food, sugared drinks, and electronic entertainment (5,6). In addition, in modern cities, choked with cars, congestion and pollution and fraught with insecurity, parents

are telling their children to stay out of the streets and keep inside and watch television and play video games.

What's needed for change

Obesity in the Americas including Latin America is now so conspicuous that it is not just a matter for physicians and other professionals. The public is now sensitised. As with politics and football, everybody now has an opinion about obesity, and its links with food and activity.

It stands to reason that people can see changes that happen in one generation. In Latin America, mothers and grandmothers too, perceive the invasion of junk food products as a cause of many maladies from which they want to protect their children. They are well aware of the difference between processed industrial food products, and the home-prepared meals they grew up with. Women are the repository of knowledge of what makes good and diverse culinary traditions. But after a generation of assault from Big Food's advertising and marketing, this knowledge and wisdom gets buried and forgotten. Snacking, obesity and allied diseases become 'part of the furniture of modern life' (1).

What is needed in Latin America, are policies and programmes that will check and reverse these trends. Specifically, new regulatory initiatives that will enable positive and healthy children's food environments, are needed. Examples within schools include making sure that school meals are nourishing and delicious, and reinstating physical education. Examples outside schools in the wider world include clear labelling of ultra-processed products to include warnings when these are high in unhealthy ingredients like hydrogenated fats, sugar or salt, and also restriction of the advertising and publicising of such products to children.

Networks of public health and nutrition institutions in Latin America, together with professional and civil society organisations, are mapping the obesity epidemic in Latin America. One thing is sure. Self-regulatory options, as advocated by transnational food manufacturers and unfortunately accepted by several governments, notably on food product advertising and marketing to children, give very few if any good results (7-9).

Above all what is needed now is leadership (10). The *Rio2012* Declaration on Public Health and Nutrition, published in *World Nutrition* in June (11), rightly states: 'Public health nutrition is both political and technical... It incorporates the underlying and structural causes as well as the immediate causes of disease, health and well-being... [It] is a central part of the public health movement, with lead responsibility in its areas of special knowledge' The Declaration rightly goes on to state: 'Governments

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must gain, retain or recover the capacity to supply high-quality public services, [and] to regulate all relevant actions that impact on public health’.

Now at last, political leaders as well as many professionals, scientists and civil society leaders, are saying that what’s happened and is still happening is unacceptable. They are not willing to give away another decade to industry self-regulatory initiatives or ignore the crisis. They want the best for our children. In doing so these leaders are taking a serious ethical stand – and standing up for our children.

How will change come? How will we achieve control and prevention of obesity most of all among children, in our continent? The commentaries that follow indicate ways forward. The issue is political, and involves among many other sectors, agriculture, trade, industry, education, finance, as well as health (12). In the emerging movement yes there are researchers and physicians. There are also plenty of people outside our field, such as politicians, officials, lawyers, journalists and civil society activists. Perhaps leaders outside our own professional field are less impressed by academic and technocratic discourse on obesity. Maybe they are immune to the influences of Big Food and Big Snack. Anyway, the game is changing. Read on!

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Box 1

The Mexico City meeting, November 2012

The Mexican National Institute of Public Health (INSP) is convening a meeting on 25-26 November, together with the Chilean National Institute of Nutrition and Food Technology (INTA) and the Latin Parliament (ParLatino). The purpose of the meeting is to strengthen the movement throughout Latin America to agree rational and effective regulations designed to control overweight and obesity in children. Participants in the meeting will include politicians and civil servants, lawyers, public health and civil society organisations, educators and journalists. Here, convenor Juan Rivera of INSP answers some questions.

Q. Why has the issue of obesity in children become more than one just of scientific interest, such that it has now captured the attention of legislators, other policy-makers, educators and public interest advocates?

A. This is a new phenomenon, and in part is the result of an epidemic that has gone way too far. In Mexico and other Latin American countries the issue of obesity is a matter of daily conversation and intense media coverage. Civil society organisations, and citizens – especially parents – are voicing their concern about the negative impact of obesity on the health and future of their children.

At the same time, governments now realize that the costs of treating obesity and associated diseases are burdening their health systems and that this cost will be unsustainable sooner than later. So calls for action are becoming louder, and pressure on politicians and governments is mounting. Legislators now are pressed in opposite directions. On the one hand their voters are demanding action. On the other hand, corporate lobbies are a powerful force on their own political careers. But some legislators, those who are more responsible, are beginning to realise that public health should prevail over economic interests.

Q. Is statutory regulation necessary? Is education no longer a solution? Is industry self-regulation not working?

A. In the past, the emphasis was on education. This was rationalised by a conceptual model that assumed that the determinants of healthy behaviour are accurate information and motivation, which alone will produce change. But environments are crucial determinants of behaviour. Picture schoolchildren in environments where water is not available, whereas sugared soft drinks (sodas) are available everywhere and are cheap, and are marketed with intense advertising designed to make sodas 'cool'. Obviously such obesogenic environments are the crucial determinants of children's consumption of sugared soft drinks.

Independent experts now firmly agree that modifying obesogenic environments by legislation, regulation and changes in social norms, is necessary to prevent and control obesity. Also, in brief, the alternative method of self-regulation, trumpeted by transnational food and drink product manufacturers, is simply not working.

Q. Who is participating in the Mexico City November meeting?

A. We will have a mix of politicians, civil servants, lawyers, epidemiologists, nutritionists, educationists, civil society representatives, and journalists. This rich combination could create a concerted public health agenda for Latin America. Participants are coming from Mexico, Brazil, Costa Rica, Chile, Argentina, Peru, and also the US. We will discuss legislation and regulation experiences in these and other countries and learn from their successes and failures. The idea is to create a network of collaborators who will think, make agreements and act on behalf of their own countries and also Latin America as a whole.

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Mexico

Healthy food in schools – by law



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Mexico: introductory note

The Mexican government was alerted to skyrocketing rates of obesity before the end of the 1990s. In 2005 rapidly rising rates of overweight and obesity among children of school age were evident and reported to government. Ministers then decided to take the issue of obesity seriously and to agree a strategy to slow down and to reverse rates of obesity, including in children. But plans were in place only in 2010. Here, Juan Rivera and Sonia Hernandez Cordera of Mexico's National Institute of Public Health report progress. They also report the problems of being confronted by transnational and national food product manufacturers that oppose regulation and that fail to follow their own voluntary self-regulatory proposals.

In 1999 the Mexican National Public Health Institute (INSP) was alerted to the emergence of a new epidemic in the Mexican population. The notice came in the form of two national nutrition surveys, which showed an unprecedented increase in obesity in Mexico. From 1988 to 1999, the combined prevalence of overweight and obesity increased 77 per cent in women (from 34.5 to 61 per cent) and a

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phenomenal 180 per cent in adolescents (from 8.9 to 24.9 per cent) in only 11 years, among the highest increases recorded globally (1).

Next, a sharp increase in the prevalence of overweight and obesity in school age children became apparent (2). The National Public Health Institute prepared and published reports indicating that school environments were promoting childhood obesity. This news had much media coverage, and raised awareness among decision makers and throughout the population about the serious threat to public health posed by the obesity epidemic.

The national agreement

As a result, the president of Mexico announced the ‘National Agreement for Healthy Eating’ (ANSA in Spanish) in 2010. The picture below (left) shows Mexican president Felipe Calderon (on the right of the picture) shaking hands on the agreement with health minister José Ángel Córdova. In general this is a voluntary arrangement, aimed at halting the overweight and obesity epidemic, with participation from a number of stakeholders, including the Mexican government itself, civil society, academia, the media, and also the food product manufacturing industry. The academic sector provided the scientific evidence and analysis for the development of the strategy (3).



Government and industry in Mexico. Politicians agree to protect children’s health (left) while industry representatives (right) work to thwart regulation

One of the government’s first actions has been to agree on an obesity prevention programme in schools. This includes statutory regulations designed to improve the availability and accessibility of healthy foods and of safe clean water, and to reduce availability of unhealthy food and sugared drink products, in the Mexican school system (4). The regulation specifies a healthy mid-day meal, with a core combination of foods for daily intake including water, vegetables, fruits, and a healthy main dish, to follow nutritional criteria (limited portion size, amounts of sugar, saturated and *trans* fats, and sodium) as defined by independent nutrition experts. Sugared drinks

and whole milk are prohibited. Salty snacks, cookies (biscuits), cupcakes, and other sweets and desserts, are allowed once a week as long as they comply with nutritional criteria.

The National Public Health Institute's system of national surveys has helped to develop and apply the regulations. It is these that have demonstrated the phenomenal increase in the prevalence of obesity, and have alerted policy-makers, professional and the general population to the urgency of implementing preventive measures.



Mexico City, 2010. Two scenes of schoolchildren being offered energy-dense fatty sugary or salty snacks and sugared soft drinks that will make them fat

Increased media attention has been crucial to raising awareness. This has been triggered by studies characterising the environment of schools as obesogenic. Research about the quality of food and the quantity of physical activity in Mexican schools has been essential to the development of regulations. Literature reviews and recommendations by international expert panels, commissioned, prepared and agreed by the World Health Organization and also the World Cancer Research Fund, have provided the scientific basis for the recommendations made by the academic group. The public policy framework provided by the national agreement further facilitated the process. Finally, commitment from the Ministries of Health and Education, the academic community and health professional and civil society organisations, has also been crucial to the success of the process

A special feature of the Mexican legal process for approving regulations proposed by the federal government, is that proposals must be submitted to a decentralised federal office in charge of improving the regulatory environment and providing transparency to the process. This is the *Comisión Federal de Mejora Regulatoria*: COFEMER is its acronym in Spanish.

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A final version of the proposed regulations, approved by the ministries of health and of education, was presented to the COFEMER online public hearing process, which was open for individuals or institutions to submit comments. Academics and other members of society expressed their support for the regulation. In their view, children's health is the responsibility of the government and therefore regulations are needed to create a healthy environment, along with a strong education component.

Opposition from the manufacturers

The food and drink product manufacturers disagree with regulations. They argue that people as individuals are responsible for their own health. Rather than reformulating current food products, say the manufacturers, the emphasis should be information and education about nutrition, and promotion of physical activity. The picture near the top of this commentary (right) is of Jaime Zabłudowski, the chief Executive of ConMexico, the Mexican food manufacturers trade association that represents the interests of the transnational and multinational corporations (Coca-Cola, PepsiCo, Bimbo, Nestlé, Kellogg, Kraft, Danone). On their behalf, he argues vehemently against regulating food and drink in Mexican schools (5). The industry arguments can be found on the COFEMER webpage (6).

These are in stark contrast to the public pledges made by the very same transnational corporations about their commitment to the WHO global strategy. Here is an excerpt from a letter sent in 2008 to Margaret Chan, WHO Director-General, by companies now actively opposing regulations in Mexico: 'In May, we outlined five commitments that our companies intend to undertake as part of our ongoing commitment to help implement the WHO's Global Strategy on Diet, Physical Activity and Health... Our companies have committed to only advertise products to children under 12 years of age that meet specific nutrition criteria, which are based on accepted scientific evidence and/or national and international dietary guidelines; or to not advertise products at all to children under 12'.

The corporations claim that the Mexican regulations, which are based on WHO recommendations, are not supported by scientific evidence. Yet ConMexico says that the Mexican food industry is not ready to discuss their own nutrition criteria that are supposedly being used to identify foods that are allowed to be advertised to children. Despite the wide acceptance of the regulations by the majority of stakeholders, the opposition of a single group, the manufacturers of processed food and drink products, has led to modifications in the original proposal, so that juices are now allowed, and nutrition criteria for amounts of added sugar and total fat have been weakened. This shows that commercial muscle has a disproportionate amount of influence. As a result of the hearings, COFEMER submitted recommendations to modify the regulations.

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Eventually, the final ruling was published as an approved regulation in August 2010. Despite the opposition of the food and drink product manufacturers, the outcome of the regulations is clearly positive. Sugared soft drinks are banned. Water, vegetables and fruits and healthy dishes are promoted. Sweetened or salty snacks are limited to only one day a week, in compliance with nutritional standards. The regulations are currently in the process of independent evaluation.

Box 2

The Mexican school food regulations

Mexico now has for the first time, explicit regulations for food in schools, based on conclusions and recommendations derived from scientific evidence. The regulations are now in their third year of implementation. The proposed foods for daily intake include water, and vegetables and fruits free at all times. The regulations include one meal a day complying with nutrition standards set by an independent group of scholars with no input from food and drink product manufacturers.

- Sugared soft drinks are banned.
- Whole milk is prohibited. Low-fat milk without added sugars is allowed.
- Unsugared juices are allowed, with a limit of less than 125 millilitres.
- Sweetened or salty snacks are allowed once a week as long as they follow the nutritional standards. These include limits to portion sizes, to added sugars, saturated and *trans* fats, and sodium, and minimum amounts of dietary fibre

The standards will be reviewed and updated every four years. An independent evaluation of the whole process is currently in progress.

Conclusion

The new Mexican school food regulations, enacted in 2010, entered their third year of implementation in 2012. Results so far are encouraging but far from perfect. Most observers expect that the newly elected Mexican government will confirm previous commitments and will continue to combat the obesity epidemic. However, efforts by industry to derail these school regulations are likely to intensify, led by the transnational and multinational processed product manufacturers united within their ConMexico trade association. Currently, the Mexican school food regulations have public support inside and outside Mexico, with media sympathy, and leadership from Mexican public health institutions and professional and public health organisations. \

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Brazil

How industry thwarts progress



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Brazil: introductory note

In 2010, after four years of pressure from civil society organisations, the government of Brazil, represented by its National Health Surveillance Agency (ANVISA), enacted regulations to limit the advertising of ultra-processed products to children. But this initiative was blocked by the transnational food and drink product manufacturers, whose lawyers cited the Brazilian national constitution. Here, Fabio Gomes tells the story, indicates what lessons have been learned, and describes the formation of new stronger civil society organisations.

The issue of childhood obesity and its relationship with the aggressive penetration by transnational industry of countries in the global South is important in itself. It also raises even bigger issues. In countries like Brazil, governments seek political and economic stability and progress, the growth of the middle classes, and an end to poverty. There is also a need to balance these aims with the needs to increase equity, improve public health, and advance well-being in all levels of the population. The concerns expressed in this and the other commentaries here, is that the governments of countries like Brazil have gone too far, in giving commercial freedoms to transnational corporations. One result in our field is obvious: spiralling rates of overweight and obesity and related chronic non-communicable diseases.

A better balance is needed between wealth and health, plus a realisation that real wealth includes good health. The vision is that a naturally rich country like Brazil can enjoy the benefits of varied diets, motorised transport and electronic communication, without the current downsides of disability and disease. What this requires is the wise use of law in the public interest – and also in the interest of responsible industry. This is the context of this commentary.

The change has come

In Brazil since the 1980s consumption of confectionery and soft drinks has increased by a factor of five. By contrast, consumption of vegetables and fruits remains far below the recommended 400 grams a day (2). The younger people are, the less vegetables and fruits they eat: the figures for adolescents, younger adults and the elderly are 115.3, 153.1 and 194.6 grams a day, respectively (3). At the same time, rates of overweight and obesity have rapidly increased. On average one-third of children and a half of adults in Brazil are now overweight (4).

In 2006, the Brazilian National Health Surveillance Agency (ANVISA), a branch of the federal government, announced its proposal to regulate the advertising and marketing of food products containing a lot of sugar, saturated fat, *trans*-fats or salt, and also of sugared soft drinks (1). The proposal was motivated by the very rapid

changes in food production and consumption in Brazil. Since the 1980s dietary patterns in Brazil have changed dramatically. Traditional relatively healthy diets have been displaced by ultra-processed products such as sugared drinks and fatty, sugary or salty snacks and pre-prepared food products.

The proposal to regulate the marketing of food and beverages was first launched for public consultation, so that anyone from consumers to policy-makers and industry chief executive officers could send their contributions (5). After four years of extensive discussion through a transparent process including public consultations and hearings, in 2010 the regulation (RDC 24) was finally published (6).

The transnationals overturn Brazilian law

During this period the transnational food product manufacturers and also big Brazilian food product companies worked energetically to defeat any regulation that challenged their freedom of action and that might affect their profits. They insisted that their products are not harmful to health. They also summoned up concepts such as freedom of (commercial) expression, challenged the right of government to legislate, and worked on public opinion through advertising and public relations and use of mass media.

The Brazilian Association of Food Industries (ABIA), then engaged the services of the most influential constitutional lawyer in Brazil, Luis Roberto Barroso (pictured below, right). He argued that RDC 24 was unconstitutional (7). He succeeded. As a result, the judge in these hearings exempted transnational corporations such as Nestlé, Coca-Cola, PepsiCo, Kraft Foods, Unilever, Kellogg's, Danone, McDonald's, so that none of them would be required to accept or follow RDC 24.



Civil society and industry in Brazil. Three leaders of strong public interest organisations (left), and the transnationals winning their case in court (right)

Civil society fights back

Despite this setback, several actions designed to ensure that consumers and citizens are protected by statutory regulations have been proposed over the last decade in Brazil. Some have been withdrawn, but many are still in process (8,9). More pressure from civil society on politicians is needed. If legislators feel no pressure they will not act.

Pressure in the public interest is mounting. In 2010 many professional and civil society organisations, with expert advisors, created a coalition to counteract pressure from the food and media industries. This Front for the Regulation of Food Advertisements (*Frente pela Regulação da Publicidade de Alimentos*) includes organisations working in fields such as public health nutrition; human, consumer and children's rights; and public policy.

A group of mothers and fathers formed Childhood Free of Consumerism (*Infância Livre de Consumismo*) in March this year, and already have 15,000 parents and citizens from all over the country. The Front advocates protection of children against aggressive marketing practices, the promotion of childhood consumerism of toys, mobile phones, clothes, and of course, against ultra-processed 'junk' food and drink products.

Perhaps the most important progressive move now, is the creation of the Inter-Ministerial Chamber of Food and Nutrition Security, which includes a total of 16 national government departments. The Chamber has adopted as its top priority the development and implementation of the Intersectoral Plan for the Prevention and Control of Obesity, to be launched in 2013. The plan will focus on statutory measures, including fiscal policies and marketing regulation.

Additionally, CONSEA, the National Council of Food and Nutrition Security (*Conselho Nacional de Segurança Alimentar e Nutricional*) a unique Brazilian body made up from two-thirds of civil society representatives, and one-third from government, which advises the office of the Presidency of the Republic on all matters involving food and nutrition security, has this year created a working group to progress food marketing regulation in Brazil.

The CONSEA working group is coordinated by Mariana Ferraz from IDEC, the Brazilian Institute of Consumers Defence (seen at left above) and also includes (next to her in the picture) Ekaterine Karageorgiadis from Instituto Alana, and Elisabetta Recine from the University of Brasília. The working group is also collaborating with grass-root movements such as the Front for the Regulation of Food Advertisements.

It now has already taken a first step, producing a letter of recommendation endorsed by CONSEA to be sent to the president of the Republic and the national parliament. This recommends approval of the projected law 1637/2007. This includes regulation of advertising and marketing of food and drink products high in saturated and *trans* fats, sugar, or sodium. Proposals include inclusion of warning messages on labels, television advertising only after 9 in the evening, prohibition of misleading or inaccurate claims, no use of real or fantasy superheroes, and prohibition of commercial promotions in schools and other places of education.

The impact of the media

Through print and electronic and social media and networks, all the organisations mentioned here that represent the public interest, and others, have been working hard to get public opinion in favour of rational regulation. This is not easy. The mass media are influenced by their advertisers which include food and drink product manufacturers, who also have teams of paid professionals working on behalf of commercial interests, including on social networks.

There is still a long way to go. As is known from the change in public mood on issues like smoking and climate change, it takes time to raise public awareness of big issues. The problems caused by the Big Food and Big Snack corporations, on human health and also on local economies, the environment, food culture and even national identity, need to be much more generally understood (10).

Box 1

Support from international media



Journalists from outside Brazil like those shown here, are revealing the bad impact of Big Food and Big Snack on Latin America. But they reach a minority audience

The print and electronic media based outside Brazil and Latin America have recently investigated and denounced the aggressive strategies used by the transnational food product manufacturers to promote their ultra-processed products. From left to right above are Vincent Landon from World Radio Switzerland, Andrew Jack from the *Financial Times*; and Vivien Altman and

Marianne Leitch of the Australian Broadcasting Corporation, who have featured the global explosion of obesity and its impact on Brazil, in their documentary film, *Globesity – Fat’s New Frontier* (11-13). These and other supportive features and investigations show that transnational penetration of countries like Brazil displaces traditional and long established food systems and damages local economies. But the reach of international media is limited to the small percentage of the population that follows international news.

In this respect, various international media, which are not as influenced by food product manufacturers as are Brazilian media, have been helpful. This is a lesson for other countries as well as Brazil. See Box 1.

School meals in Brazil

Protection of the health of children by law in Brazil is not new. The Brazilian school meal programme is a remarkable national policy, which for decades has been supporting the guarantee of nourishing meals for what are now over 45 million children in the public system of education. The current version of the law preserves a high share of nourishing fresh foods such as rice and beans, vegetables and fruits, and restricts ultra-processed products in schools. It also supports local family and cooperative farmers by requiring that at least 30 per cent of all food supplied to schools comes from local producers (14). And for action at State and municipal level see the examples in Box 2.

Box 2

Action at state and municipal level

Brazil is a vast country, the same size as the US excluding Alaska, and as in the US much action in the public interest is happening at State and municipal levels. Thus on 18 November 2011 the large north-eastern State of Bahia agreed a formal requirement prohibiting commercial food kiosks, cafeterias or canteens inside schools. Its Article 1 specifies: ‘To close for-profit canteens/cafeterias of the private sector, which are installed within the physical area of school units of the state network of education’.

Florianópolis, the capital of the southern State of Santa Catarina, was in 2001 the first municipality to pass laws prohibiting commercialisation of some specific food and drink products in public and private schools within the city. This law was later in 2001 scaled up to apply to the whole State. *Florianópolis law and then Santa Catarina law forbid the commercialisation in schools of the following: Drinks with any alcoholic content; candies, lollipops, gums; soft drinks and artificial juices; industrialised salty snacks; deep-fried snacks; industrialised popcorn.*

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Conclusion

Brazil has had laws in place to protect the health of schoolchildren for many years. These favour appropriate traditional foods and sustainable and fair methods of production, and restrict ultra-processed products. But Big Food and Big Snack, the transnational food and drink product manufacturers, are determined to displace dietary patterns based on meals, with constant snacking of energy-dense fatty, sugary or salty products. Commercially this is understandable, given the opportunities of a vast country with 200 million people. Pressure from food and drink product manufacturers is a reason why regulation of the advertising and marketing of unhealthy products to children has not yet been achieved in Brazil. But public awareness of the issues and their implications is steadily increasing, and adequate regulation is surely now only a matter of time.

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Commentaries. Legislation. Children. Obesity

Costa Rica:

The law protects public health



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Costa Rica: introductory note

Here, Leonardo Garnier narrates a story that could make a blockbuster novel. Faced with the crisis of childhood obesity, the ministries of education and of health understood it was time to pay close attention. They convened public health experts and listened. They narrowed the options and decided to reform school shops (kiosks or cafeterias) that were full of unhealthy snacks and sugary drinks. A decree with the seal of both ministries was enacted. Industry representatives promptly objected. But as Leonardo Garnier says below: ‘the regulation was consolidated legally and attempts to stop it failed. There was a period in which polemics and attacks persisted in the press and in social networks, insisting on the same arguments. However, both the public opinion and that of communications media was largely in favour of regulating school cafeterias’. Perhaps this will lead to more reforms in Costa Rica on behalf of the health of its children.

For many years in Costa Rica, the ministry of education and also the ministry of health had considered regulating the sale of food in schools and other educational institutions. However, efforts were isolated and tended to bump into the argument of ‘free trade’, as well as an absence of political backing in light of the irate reactions from certain segments of the corporate sector whenever the possibility of such regulations were mentioned in the media.

Thus in October 2007, an article titled ‘What do the students eat?’ in one of the primary newspapers of the country stated: ‘A recent survey of 1,010 high school students of the greater metropolitan area revealed that the diet of the majority of these young people consisted of an excess of fats, fried foods, and processed products. Furthermore, they ate few fruits and vegetables (at most a serving a day, far below the recommended five) and consumed many carbonated drinks (35 per cent consumed an average of three soft drinks a day, the equivalent of 12 tablespoons of sugar).’ (1).

Commitment of government

Officials of the ministries of education and of health were interviewed and lamented the lack of existing regulation. As a personal anecdote: right before the publication of this article, I remember receiving a call from a good friend, a lawyer, who was concerned that I was about to get myself in a huge mess by trying to promote regulations. He had heard very unfavourable observations from his clients, who were already convinced that this was my intention.

I should confess that the warning had a different effect than what my friend had expected. It aroused my curiosity and resulted in a meeting with staff members of the ministries of health and of education to learn about their views on this topic and the articles that were being published. The meeting was crucial. The technical officers contributed an enormous quantity of evidence on the growing problem of obesity in Costa Rica, on the broad consequences of sedentary life and malnutrition (especially in childhood and adolescence) and on the urgency to ‘do something about it.’ They also vented their frustration with the inactivity of both ministries and showed their complete commitment to regulate the food available in schools.

A little later, an additional element that played an important role in supporting our decision to act, was the national survey of nutrition 2008-2009. This showed an alarming deterioration in the nutrition and health of Costa Rican youth. In particular, the survey showed a rapid increase in overweight and obesity of children between 5-12 years of age from 14 to 21.5 per cent. All age groups of the population experienced similar increases (2).

First attempts at regulation

The preliminary versions of what were to be regulations of school cafeteria food, presented to us in government, were unsatisfactory. What had been prepared was a ‘positive list’: guides to or regulations of what could be sold in schools, without establishing what could not be sold. We asked why this approach had been chosen. The response was particularly interesting. The technical experts had assumed – based on past experience – that a ‘negative list’ of types of food and drink products to be restricted or prohibited would not be politically viable.

The minister of health and I agreed that despite the risk, a prohibitive approach was better. One reason was that ‘positive lists’ posed an impossible methodological problem. Unless these were infinite, they would leave out many foods and products that were just as acceptable as those included on the list. This could lead to justified legal action protesting against product discrimination.

Once we had decided on the general approach, our technical teams worked on a draft identifying food products, or characteristics of these products, to be restricted in schools. This was an intensive project, supported by the Costa Rican Research Institute and Teaching in Nutrition and Health (INCIENSA). A series of versions, combining characteristics that we considered technically and politically important, were discussed. We all agreed that to be worthwhile, regulation had to ‘have teeth’: that is, it must restrict those elements definitely identified as harmful to the nutrition and health of children and adolescents.

Thus, we progressed work on excess dietary energy (calories) and of excess fats and sugars, with attention to sugared soft drinks. We also paid special attention to a specially difficult issue. This was that school shops, in addition to selling pre-prepared processed products, also used industrially processed ingredients to make into snacks on-site in the shops.



Schools and legislators in Costa Rica. A typical school food shop in San José (left) and Ana Virginia Calzada, president of the national constitutional court

Commercial and political realities

In late 2009 we had a relatively complete draft of the regulation. We started a process of dialogue with CACIA, the Costa Rican Food Industry Association, which represents almost all food manufacturers and distributors. As expected, their reception of the regulation was not good. At meetings with CACIA leaders and with representatives of private industries, the arguments were very similar. In general they agreed that there was indeed a health concern, but they saw regulation of what products could be sold in school cafeterias as unacceptable. They said that restriction or prohibition of any products would be the equivalent of saying that the products were harmful, and this would have an impact on the image – and the sales – of such products. Discussion continued, without agreement.

These realities then also became political realities. In February 2010 there were national elections, and in May the government would change. In this context it was evident that it would not be possible without agreement from industry to achieve official approval for the regulation. But sacrificing essential elements of the regulation for the sake of reaching an agreement was not acceptable to us. The end of the government term seemed to mark the end of yet another fruitless effort to regulate school shops.

But then luck played a part, as it may do in all human affairs. As a result of the February elections, the presidency of Oscar Arias was followed by that of Laura

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Chinchilla, of the same political party, the *Partido Nacional de Liberación*. She decided to maintain the ministers of health and of education. So in 2010 we began again, and revisited the issue of regulation of school meals, and added the minister of economic affairs, Mayi Antillón, to the discussions.

The representatives of CACIA argued that the proposals were excessively restrictive and would prohibit almost all processed food products from sale in school shops. So we proposed a more moderate policy, and suggested a list of products that, with reformulation, could eventually be permitted. Time went by and we never received the list. At a further meeting we were told that industry could never accept such an approach: restriction of certain foods would force them to accept something they were 'philosophically' not willing to swallow: that there are 'good' and 'bad' foods. So no agreement could be reached.

The following step was to publish the draft in the Costa Rican official journal, *La Gaceta Oficial*, and open public discussion, before issuing the regulation as a presidential decree. Opinions similar to those of CACIA were received, rejecting the proposal itself. A plethora of commercial, health-related, and educational organisations voiced their opinion. Sectors of the food industry were not totally opposed to regulation, in contrast to the corporations represented by CACIA. Some companies stated their interest in producing food products that fulfilled the requirements of the regulation, and requested that some of the restrictions be made more flexible and gradual.

Box 1

Products restricted in Costa Rican school shops

Article 15°. Products prohibited for sale. The sale of the following are not permitted in school cafeterias:

Pre-packaged beverages and snacks whose nutritional label indicates sugar or sugars (syrup, corn syrup, etc.) or fats (oil, lard or of pig) as primary ingredients

Beverages and other processed foods with sweetened pulps and artificial concentrate that contain more than 15 grams of sugar per glass or 250 ml serving.

Carbonated beverages, including 'diet' or 'light' drinks.

Energy drinks.

Sausages not labelled as 'light' ('light' variants have less than 25% total fat).

Food prepared with fats, oils, and/or partially hydrogenated margarines for which the label does not indicate that there are no *trans* fatty acids.

Pre-packaged products that do not have nutritional content labels.

Pre-packaged products (excluding beverages) that have (per 100 gram serving) more than 10 grams of fat or 5 grams of saturated fat, more than 20 grams of sugar, more than 300 milligrams of sodium, or more than 400 kilocalories (1675.60 kilojoules) based on what is stated on the nutritional content label.

Prepackaged drinks (including milk beverages and yogurt) that have per serving of 100 milliliters, more than 2 grams of fat, more than 1 gram of saturated fat, more than 300 milligrams of sodium, or more than 60 kilocalories (251.34 kilojoules) based on the nutritional label.

With all these points in mind, the final version of the executive decree 36910-MEP-S was published in *La Gaceta Oficial* on 12 January 2012 ‘for the operation and administration of cafeterias in public education centres.’ Articles 14 and 15 are the most important. Article 14 refers to food preparation in the cafeterias, limiting the use of sugar, deep-frying, excesses of fats and butters, and so on. Article 15 is concerned with processed products: see Box 1.

A period of transition of three years was established in order to meet these targets, particularly in regards to energy (calorie), fat, sugar and sodium content. Thus, manufacturers would have time to reformulate their products.

The process of preparing and approving the regulation was interesting. But this was nothing, compared to the process of implementation. Opponents, led by CACIA, with some distributors to school shops, presented a claim of unconstitutionality before the Costa Rican constitutional court. They demanded suspension of the regulation, invoking violation of free trade principles and loss to their business. However Virginia Calzada, president of the Costa Rican constitutional court (pictured above) upheld the legality and constitutionality of our proposals. This was crucial.

The court was particularly clear in this regard and issued the following statement: ‘The State should safeguard the health of its inhabitants, especially children, which means that it can restrict – as in this case – the freedom of trade of cafeteria food distributors, on the basis of the powers conferred to the Administration in the legal framework, especially considering the priority of ensuring children's well-being over upholding free trade. Freedom of trade is secondary to more relevant interests, such as supporting students in their comprehensive formation, which implies not only education in the sciences and arts, but also in good eating habits that form to a great extent the basis of human health.’ (3).

With constitutional and administrative endorsement, the regulation was consolidated legally. Further attempts to stop it failed. There was a period in which polemics and

attacks persisted in the press and in social networks, insisting on the same arguments. However, both public opinion and that of print and broadcast media was largely in favour of our regulations.

Cooperation from industry

Some food corporations and their representatives maintained an openly antagonistic attitude toward the new regulations. But a growing number of companies approached the ministries of education and health in a spirit of cooperation.

One of these companies is Florida Bebidas, who despite being Pepsi distributors, have begun to reformulate their non-carbonated drinks to reduce the quantity of sugar and thus calories. Another example is Dos Pinos milk producers, a big national company. At the time of approval of the regulation, only five of their products fulfilled the requirements. A few weeks later it was announced in a press conference to which the ministry of education was invited, that they had begun to work on reformulating their products such that 25 would meet the requirements.

Many other companies are now making similar moves, seeing the regulations not as a threat but as an opportunity. For obvious reasons, the regulation has had very solid support from fruit and fresh food producers, as well as from companies that had already made healthy foods part of their marketing strategies before the approval of the regulation. One obstacle to progress persists. Shops close to schools promote their ranges of products now prohibited inside schools.

The Costa Rican ministry of education, with the support of the ministry of health, and of health professional and civil society organisations, has now started a process of sensitisation and training of cafeteria vendors, school and other educational centre directors, and other relevant policy-makers and opinion-formers. Progress is of course varied, but is systematic. Some schools are resisting and risking cancellation of contracts. Some are progressing well. Others are exemplary, and are responding creatively, attracting pupils and students to healthy foods while staying in business. The economic viability of the new regulations is vital. In all this, support from schools and from parents is crucial.

Conclusion

As in other public affairs, the central American republic of Costa Rica is proving to be a beacon of hope and achievement, for other countries in Latin America, and for the American hemisphere. The processes summarised by minister of education Leonardo Garnier in this brief commentary are essentially the same as those experienced throughout the Americas and throughout the world. The difference is

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that Costa Rica has succeeded in one significant area: not school food as a whole, but products sold in school shops. The intensity of resistance from industry to reasonable regulations is the same the world over, except that in Costa Rica, elected politicians like Leonardo Garnier decided that the public interest and public health over-rode commercial interests. In so doing, Costa Rica is discovering that industry can and sometimes will respond and cooperate.

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Commentaries. Legislation. Children. Obesity

Chile: Is this a breakthrough?



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Chile. Introductory note

Chile is the most economically developed country in Latin America, With Mexico it is the most open to the 'market' economy, meaning commercial freedom for transnational food and drink product manufacturers, and is also the most afflicted with obesity, including among children. Some dedicated politicians, backed by professional and civil society organisations, determined to make and enact laws to protect children against *comida chatarra* (junk food). In July this year the Chilean president signed such protection into law. But as Cecilia Castillo and Marcela Reyes make clear here, much remains to be done,

On 6 July this year, after six years of discussion by the Chilean national congress, a progressive law on food labelling and advertising was finally ratified by the current Chilean president Sebastián Piñera. This is the first such national law in the hemisphere of the Americas.

Dietary patterns in Chile have greatly changed since the 1980s, moving from traditional family meals, to consumption of individual processed 'fast' and snack products (1). Only 16 per cent of Chilean adults consume five portions of fruits and vegetables a day (2). Purchases of processed products amount to 57 per cent of all household expenditure (1). A reason for this phenomenal change is the power of advertising and marketing of processed food products, much of which targets children. Thus in 2009 over half of all food product advertising was aimed at children, and of this 79 per cent was for unhealthy products. At the same time, almost half of young children and two-thirds of adults are overweight or obese (2-4), and over 70 per cent of the burden of disease measured as disability-adjusted life years is due to chronic non-communicable diseases of which unhealthy diets and also physical inactivity are important causes (5).



Schools in Chile. Typical school food shops in Santiago. The only option for the children is comida chatarra – fatty sugary or salty snacks and drinks

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The first proposed law

The process that led to this year's law began in 2006. In that year civil society representatives and nutrition scientists met with senator Guido Girardi, himself also a physician, in order to develop a law to address the epidemic of obesity and associated chronic diseases (6) As a result, Guido Girardi and other senators introduced the first proposed bill on food labelling and advertising for discussion in Chile's national congress, in March 2007.

This project originally established the definition of unhealthy foods by using and adapting criteria and graphic information from the 'traffic light' food labelling system developed by the Food Standards Authority in the United Kingdom (7). The original proposed bill prohibited the sale of such products in schools and also within a 100 metres radius of school property. Also, *comida chatarra* (junk food) was not to be distributed or sold to children under 14 years of age, and its sale could not be associated with the use of toys or other items that appeal to young children. Food packaging was required to have a warning label highlighting the health risks associated with consumption of excess fat, sugar or salt.

In response, the Chilean food product industry representative organisations, notably the Society of Food Industries (Chilealimentos), the National Association of Soft Drinks (ANBER), and the National Association of Advertisers (ANDA) argued that the proposal violated freedom of (commercial) expression, ignored the principle of principle of self-responsibility, and did not understand the complexity of advertising. They also stated that any ban on their products would lead to underground 'informal' trading. Instead, they proposed education and information programmes.

The legislative process took nearly three years, from March 2007 to January 2010, in which time it gained the support of the previous government of which the president was Michele Bachelet from the centre-left party, who as well as being a politician is a public health physician. She also requested the inclusion in the law of three more items, banning the advertisement of infant formula, mandating three weekly blocks of physical education classes in schools, and making food education an obligatory part of the school curriculum (5).

As a way to publicise and expand discussion of the bill, the congress, in cooperation with the ministry of health, convened the International Summit on Health and Nutrition in Valparaiso, in March 2008. The bill passed through the Chilean House of Representatives, but without the traffic light food labelling system.

In 2010 many of the clauses in the proposed bill previously approved by the Chilean senate were rejected by the house of representatives, A new version of the bill –

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nicknamed the ‘Super 8’ after a sugary snack – was sent to the congress joint commission in 2011, and there many original clauses were reinstated. The bill was approved by congress in 2011 – but was immediately vetoed by the new national president from the centre-right party, the politician and businessman Sebastián Piñera. Negotiations then took place to make the proposal an acceptable law, and three clauses, banning advertising of infant formula and the sale of unhealthy food in universities, and mandating the three weekly blocks of physical education classes in schools, were removed.



Legislators, academics and civil society in Chile, working together to gain rational laws to restrict the advertising and marketing of comida chatarra

During this period legislators, civil society organisations, and experts, worked together to achieve a law that would be valuable and also accepted. Above (left) are senator Guido Girardi and Ricardo Uauy, the previous director of INTA, Chile’s national nutrition institute, together with Cecilia Castillo (centre of the picture). The occasion was an international conference convened by Guido Girardi, then leader of the Chilean senate, in Valparaiso in October 2011, during which strategy for Latin America and the Americas was discussed. The picture at right above, shows some of the protests mounted by civil society against the presidential veto.

The proposal becomes law

But finally the proposal has become law, as shown in Box 1, establishing that it is the duty of government to protect children against food products that are high in fat, sugar or salt. The critical task of defining what is ‘high in’ and ‘low in’ has as shown in Box 1, been given to the national ministry of health who in turn have asked INTA, the National Institute of Nutrition and Food Technology, to take on this work.

Box 1

The Chilean law

Packaged foods must on their labels, state their nutritional composition, at least in regards to energy (calories), saturated fat, sugar and sodium.

No ingredients may be added in concentrations that could be harmful to health.

The Ministry of Health will determine what amounts to high concentrations of relevant ingredients.

Products high in 'critical ingredients' may not be offered for free, or advertised to children under 14 years of age.

Promotion, advertising and marketed of such products are prohibited on preschool and primary and secondary schools.

Such products may not be promoted using 'hooks' such as gifts, contests, games, or other methods that attract children.

All is not complete, however. The definition of cut-off points for what is meant by 'high' and 'low' is disputed, and much depends on which government is in power at the time of making the law concrete and specific. A further concern is that the committees set up by the ministry of health charged to define the rules, have only a limited participation of independent academics and consumer organizations. Also, prohibition of toys and other items to lure young children into fast-food restaurants and supermarkets is challenged, because the Chilean Health Authority claims that it cannot carry out this law without further regulation (9).

Finally, and perhaps most ominous, the law as now agreed will be brought to consideration by the World Trade Organization (WTO), whose principal concern is not public health, but freedom of trade, and which may question the right of the Chilean or any national government to put public health first.

Conclusion

Is what is happening in Chile a genuine breakthrough? Will it survive? Is it an example to other countries in Latin America and the Americas? Time will tell. In the meantime, the children of Chile, and of Mexico, Brazil and Costa Rica, of Latin America and the hemisphere of the Americas, need support.

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Conclusion

The authors of the commentaries above on the situation in four Latin American countries have agreed the following initial conclusions. Their purpose is to identify common ground for future work, and to encourage a wider debate leading to agreement and concerted effective action throughout Latin America.

First. In Latin America the obesity epidemic among children is a public health crisis that must now be confronted and controlled. This is a prime duty of our elected politicians and our civil servants, supported by professional and civil society organisations. It requires decisive leadership. It also requires from government the capacity to choose and enact appropriate measures or interventions, the securing of all necessary financial, other material and human resources, and the use of statutory regulations to make necessary actions legally binding.

Second. Some key policies and interventions now being implemented or considered by governments at national, state or municipal level, or by school authorities, are:

- Create environments in schools in which attractive nourishing food and safe drinking water are always available.
- Sustain these school environments by prohibiting the sale of pre-packaged food and drink products that are high in fats, sugars or salt.
- Ensure that healthy national and local culinary traditions and practices are taught in schools.
- Maintain, develop or create school meal programmes that protect against obesity and that promote good health and well-being.
- Protect children against the negative impact of advertising and marketing of unhealthy processed food and drink products.
- Require that food product labelling including on the front of packaged products does not include misleading claims, and identifies how much fat, sugar and salt they contain, with warnings when the amounts are high.
- Give price support to healthy foods such as vegetables, fruits, whole grains and legumes (pulses). Tax sugared soft drinks and other unhealthy processed packaged products.
- Ensure the right to clean safe drinking water, identified as such, accessible in all settings, especially in places where some sources of water are not safe.
- Strengthen or reinstate physical education in schools as a daily requirement, in effect as part of the core curriculum.
- Configure streets especially in cities, so that it is easy, secure and pleasant to walk and cycle to and from work or during the day.

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- Implement national communication and education strategies based on current national dietary guidelines, in partnership with the media and the health and education sectors
- Inform the public about healthy diets, and warn against food and drink products and ingredients that increase the risk of obesity or of non-communicable diseases

Third. The authorities in countries that decide to adopt concrete and lasting measures designed to protect children against obesity, need to enact and implement standards and laws that are binding, effective, transparent and accountable, and whose results and impact are monitored and evaluated.

Fourth. The protection of children in these and other ways requires political will that is constantly supported by energetic encouragement from outside government. It requires partnership between a large number of departments of government at national, state and local levels. Good understanding of problems and solutions and adequate technical capacity, as well as sustained social engagement and political will.

We envision partnerships involving public health and school authorities, research institutions, health professionals, the media, civil society organisations, parents associations, legislators, and also those sectors of industry whose policies and practices maintain or improve public health. Guidance and support is also needed from international agencies, starting with the Pan American Health Organization, and also the UN Children's Fund (UNICEF), the UN Food and Agriculture Organization, and the UN Educational, Scientific and Cultural Organization (UNESCO).

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