



CARIBBEAN PUBLIC HEALTH LAW FORUM

Newsletter



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Reflections on the Forum's First In-Person Meeting

By Plenary Chair of the Forum, Dr. Shana Cyr-Philbert and Vice-Chair, Shyra Wattley

The Caribbean Public Health Law Forum held its first in-person meeting in Bridgetown, Barbados on 30 and 31 October 2023. Launched in 2021 during the height of the COVID-19 pandemic, it was truly a momentous occasion for the Forum to host this meeting of key regional stakeholders in the areas of Non-Communicable Diseases (NCDs) and Law and a joint workshop on health taxes.

This two-day meeting was a further step in realizing the Forum's aim to serve as a platform for communication, collaboration and engagement of individuals and institutions working in health and/or legal affairs, to advance the use of law to address NCDs and their risk factors with the support of the Pan American Health Organization/World Health Organization (PAHO/WHO).

This pivotal meeting also aligned with the Forum's vision to underscore the importance

of law in promoting and protecting the health of the public. Given its mandate to raise awareness and bring to the forefront the need for regulatory frameworks, such as those needed to implement the WHO "Best Buys", (a set of very cost-effective interventions for the prevention and control of NCDs), the Forum needed to create an environment which brought together expert legal minds, public health experts, civil society organizations, experts in financing, academia



Reflections on the Forum's First In-Person Meeting continued

and other relevant stakeholders to discuss evidenced-based solutions to the most pressing NCD challenges within the context of public health law. This was indeed an opportunity for all present to align their priorities while learning from each other and making future commitments based on evidence-based best practices.

The agenda facilitated the flow of critical health information on the prevalence of NCD risk factors, such as obesity, especially in children, as well as tobacco use and exposure across the Caribbean region. These risk factors were compared to existing legislation, or the lack thereof, aimed at protecting the public's right to health. Attendees learned of best practices in other Caribbean countries and in the region of the Americas. Participants further benefited from exploring and discussing interventions within their sociopolitical context against the backdrop of examples from similar settings with the result of gaining an understanding of what tended to work, what didn't and why.

Given the presence and opportunities for collaboration afforded by the meeting, participants were able to explore collaboration with participating entities, including PAHO.

Major topics under discussion related to:

- The importance of regulations to promote breastfeeding and fulfil the International Code of Marketing of Breastmilk Substitutes
- The use of front of package warning labels in all products that are high in critical nutrients like sugar added, sodium and fats enables consumers to make informed choices
- Addressing the commercial determinants of health and conflicts of interest
- The need for a whole-of-society approach to tackle NCDs
- The promotion of the human rights framework
- The possibility of invoking the jurisdiction of the Courts, particularly the Caribbean Court of Justice on public health matters.

The relevant exchange of knowledge fostered by this meeting provided context and impetus for the development and implementation of needed policies and legislation in the Caribbean to effectively tackle NCDs and their risk factors such as tobacco smoking and unhealthy diets. In the context of taxation, the use of evidence allowed attendees to reflect on the need to use taxation as a means to reduce the prevalence of risk factors without creating inequities or trade barriers.

It is hoped that this in person meeting is the first of many as the Forum continues to fulfil its mandate to promote and facilitate knowledge sharing, capacity building and cooperation across the Caribbean region in the area of public health law.



Celebrating meaningful collaboration: participants from diverse countries gather at the event's conclusion



Brian Payne, Deputy Nutrition Officer at the National Nutrition Centre of Barbados



Gladys Young, Assistant General Counsel, Office of the General Counsel, CARICOM Secretariat



L-R: Kimberly Benjamin, O'Neill Institute, Sheryl Wright & Ignacio Ibarra, PAHO



Samantha Moitt, Tobacco Control Focal Point - Antigua and Barbuda



Guillermo Sandoval, PAHO Advisor, Health Economics and Financing



Engaging expertise: members of the Regional Nutrition Team - Victor Villalobos, Luis Galicia & Audrey Morris, PAHO addresses questions from the audience



Meeting and Session Highlights

The invaluable contributions and overarching spirit of collaboration from so many public health and legal experts from across the region made the meeting a highly interactive experience, one that the Forum considers a success. The following are some of the sessions' main takeaways.

Keynote Speaker - Hon. Mr Justice Winston Anderson, Judge of the Caribbean Court of Justice, Chair of the CCJ Academy for Law

“...There is a modest but important and growing body of substantive Caribbean law on NCDs and their risk factors, starting with our Constitutions. An increasing number of Caribbean Constitutions provide that the State has the obligation to guarantee the right to life, health, and respect for human person.”



NCDs and the Law Meeting (Oct 30-31)

- A coordinated approach must be used in the prevention of NCDs when employing statutory legislation. It is critical that we engage in inter-programmatic work to protect the design, implementation, and evaluation of health policies from the undue interference of commercial and other vested interests.
- Strengthen national technical expertise to regulate risk factors.
- Reinforce national commitments to approve regulations that are largely the exclusive competence of health authorities.

Tax Workshop (Nov 1 to 3)

- Taxation can positively impact NCDs as tax increases that lead to price increases reduce consumption which:
 - Results in lower medical expenses due to reduced illness.
 - Generate greater labor income through longer and more productive lives.
- In some countries where earmarking was used as a policy tool, the inability to monitor funds created issues, while strong and transparent reporting and governance facilitated buy-in.
- Investment cases can be an excellent way to present the health and economic benefits of implementing tax interventions.



Challenges In Policy Design

COMMON CHALLENGES ACROSS RISK FACTORS

- Political economy including industry disputes around marketing
- Monitoring and enforcement of regulatory measures, particularly for digital marketing
- Legal arguments around freedom of expression and opinion and its relationship with public health



FOR FOOD AND BEVERAGE MARKETING REGULATIONS

- Defining foods and beverages is subject to regulatory measures established by law using proven evidence, as in the PAHO's nutrient profile model.
- Defining 'children' through an age threshold for protection should be set to a minimum of 18 years.
- Defining marketing 'to children' (whether all marketing, marketing to which children are exposed, or marketing directed at children).
 - Correcting market failures includes ensuring consumers are informed and internalizing external costs of behaviour.
 - Distributive justice requires government action to address inequalities.
 - Legal disputes on tobacco control measures have been adjudicated, with a big win for public health on tobacco plain packaging.



Meeting and Session Highlights continued



Caribbean Domestic Legal Claims

- Countries can take comfort in judicial recognition of the sovereign right of states to regulate and advocate in the interests of public health.
- Governments may rely on the body of jurisprudence which underscores that the right to health justifies limitations on economic freedoms.
- Be keen on research and apply caution in delivery and advocacy.
- Accord careful consideration to the process adopted in the design and implementation of regulatory measures to ensure the measure is robust in the face of potential legal challenges under domestic, regional and international laws and agreements.

Taxation Policies

- The strategic use of taxes and other fiscal measures can promote healthy products and reduce the burden of the risk factors to NCD.
- To avoid lawsuits, the anti-competitiveness of a tax design and structure should be analyzed before implementation, i.e., ensure the tax does not discriminate against and/or between imported products or foreign investors.
- Implement sugar-sweetened beverages (SSB), junk food, tobacco and alcohol taxes as part of a comprehensive strategy to combat obesity and establish clear expectations with industry that NCD risk factors will be subject to ongoing regulation.



The NCDs and the Law Meeting Entity Participants

- Adolfo Ibañez University (UAI) (from Chile)
- Campaign for Tobacco-Free Kids
- Caribbean Court of Justice Academy for Law
- Caribbean Public Health Agency (CARPHA)
- CARICOM Secretariat
- Global Health Advocacy Incubator
- Healthy Caribbean Coalition
- McCabe Centre for Law and Cancer
- O'Neill Institute for National and Global Health Law, Georgetown University
- Organization for Economic Co-operation and Development (OECD)
- Pan American Health Organization/World Health Organization (PAHO/WHO).
- The University of West Indies, Cave Hill Campus - Law and Health Research Unit
- The University of West Indies, George Alleyne Chronic Disease Research Centre
- The University of West Indies, St. Augustine Campus - Centre for Health Economics.
- United Nations Development Programme (UNDP)
- University of Illinois at Chicago (UIC)
- World Bank
- World Health Organization (WHO)



Snapshots of Forum Members in Health Law-Related Meetings

Tackling NCDs and their risk factors requires collaborative effort. The Forum was pleased to have participated in these policy discussions:



Caribbean Food and Law Seminar



This seminar was organized by the Global Health Advocacy Incubator and the Global Centre for Legal Innovation in Food Environments, O'Neill Institute for National and Global Health Law (Kingston, Jamaica – 07-09 November 2023)

Meeting on Food Policy



Bloomberg Global Partners Meeting on Food Policy (New York, USA – 30-31 October 2023)

Snapshots of the NCDs and the Law Meeting organized by the Forum



L-R: Kayan Toussaint, Shyra Wattle, Jeniece St. Romain



L-R: Mr. Dean Chambliss, Director; Dr. Guillermo Sandoval, Advisor, Health Economics and Financing, Subregional Program Coordination, Caribbean, PAHO



L-R: Drs. Michelle Harris, Taraleen Malcolm, Gloria Giraldo, Brittney Jones, PAHO NCD/Mental Health Technical Advisors



Ignacio Ibarra and Luis Galicia, PAHO



Dr. Amalia Del Riego, PAHO/WHO Representative, Barbados and the Eastern Caribbean Countries



Professor Trevor Hassell, President, Healthy Caribbean Coalition



Dr. Shana Philbert Cyr, Plenary Chair, CPHLF



Meet the Members



JOHN COOMBS
(STEERING COMMITTEE MEMBER)

Judicial Counsel at the Caribbean Court of Justice and Corporate Secretary of the CCJ Academy for Law

My role on the CPHLF Steering Committee is to represent the CCJ Academy for Law in its efforts to promote greater levels of health amongst the Caribbean population, by strengthening Caribbean institutions and frameworks.

My vision for the CPHLF is that it be the vehicle for health promotion, through the understanding and use of available legal mechanisms in the region.



DANIEL LOPEZ
(VICE CHAIR OF THE CPHLF TOBACCO CONTROL WORKING GROUP)

Senior Legal Advisor at the International Legal Consortium in Campaign for Tobacco-Free Kids

Along with assisting the Chair of the Forum's tobacco control working group in all matters related to operations of the Working Group, I support technical and legal capacity-building efforts in the Caribbean region regarding tobacco control policymaking and litigation strategies.

The Forum and its members are valuable agents of change to improve the health of the Caribbean population, providing an excellent platform for members to raise their voices about the importance of the adoption of policies to tackle NCDs and help them craft and implement effective tobacco control policies for the benefit of all Caribbean communities.



MAKEDA THOM
(VICE CHAIR OF THE CPHLF FOOD POLICY WORKING GROUP)

Trinidad and Tobago; Master of Laws Student

As the Vice Chairperson of the Food Policy Working Group, I support and assist the Chair in their various responsibilities, including the coordination of meetings and guidance of the Working Group to achieve its objectives.

My vision for the Forum and the Working Group is to contribute to a framework of effective and sustainable policies and strategies to tackle NCDs which are geared toward ensuring nutritious food is available to and accessible for everyone in the region.



Resources

JOINT MEETING ON NCDS AND LAW WITH THE CARIBBEAN PUBLIC HEALTH LAW FORUM AND ON HEALTH TAX POLICIES
- PAHO/WHO | Pan American Health Organization <https://www.paho.org/en/joint-meeting-ncds-and-law-caribbean-public-health-law-forum-and-health-tax-policies>

WHO MULTICOUNTRY STUDY - HOW THE MARKETING OF FORMULA MILK INFLUENCES OUR DECISIONS ON INFANT FEEDING
<https://www.who.int/publications/i/item/9789240044609>

REPORT ON THE SCOPE AND IMPACT OF DIGITAL MARKETING STRATEGIES FOR PROMOTING BREASTMILK SUBSTITUTES
<https://www.who.int/publications/i/item/9789240046085>

LITIGATION RELEVANT TO REGULATION OF NOVEL AND EMERGING NICOTINE AND TOBACCO PRODUCTS: CASE SUMMARIES
<https://www.who.int/publications/i/item/9789240024182>

SPECIAL ISSUE: JUDICIAL STATEMENTS FROM LEGAL ACTION INVOLVING THE TOBACCO INDUSTRY
<https://tobaccoplaybook.net/en/016-judicial-statements.html>

SPECIAL ISSUE: TACKLING TOBACCO CONTROL BEYOND HEALTH: A COMPREHENSIVE APPROACH
<https://www.paho.org/journal/en/special-issues/tackling-tobacco-control-beyond-health-comprehensive-approach>

WHO HEALTH TAXES PRIMER 2019.
<https://www.paho.org/en/documents/health-taxes-primer>

LESSONS LEARNED FROM FOSTERING TOBACCO TAXES IN THE AMERICAS AND IMPLICATIONS FOR OTHER HEALTH TAXES
<https://www.paho.org/journal/en/articles/lessons-learned-fostering-tobacco-taxes-americas-and-implications-other-health-taxes>

WHO MANUAL ON SUGAR-SWEETENED BEVERAGE TAXATION POLICIES TO PROMOTE HEALTHY DIETS
<https://www.who.int/publications/i/item/9789240056299>

EXCISE TAXES ON SUGAR-SWEETENED BEVERAGES IN LATIN AMERICA AND THE CARIBBEAN
<https://www.paho.org/en/documents/excise-taxes-sugar-sweetened-beverages-latin-america-and-caribbean>

RESOURCE TOOL ON ALCOHOL TAXATION AND PRICING POLICIES
<https://www.who.int/publications/i/item/resource-tool-on-alcohol-taxation-and-pricing-policies>

EFFECT OF COMPREHENSIVE SMOKE-FREE LEGISLATION ON THE TOURISM INDUSTRY IN COUNTRIES OF THE CARIBBEAN COMMUNITY
<https://iris.paho.org/handle/10665.2/56463>

Compliments of the Season

We are proud of the collaborative strides we have made this year which culminated in our successful in-person meeting that boasted the attendance of over 60 public health and legal luminaries representing 10 CARICOM member states. We remain thankful to all members, contributors and other stakeholders for their continued support.

As we forge ahead, we extend season's greetings to each of you and your families. May you celebrate good health, peace and prosperity.




**CARIBBEAN PUBLIC
HEALTH LAW FORUM**