

The following is drawn from the report 'Checks and Balances in the Global Economy: Using International Tools to Stop Corporate Malpractice - Does it Work?' (1977 words)

IBFAN's overarching strategy has been to pursue the virtuous cycle of international standards, national measures and independent monitoring, working with other governmental and non-governmental organisations, to protect breastfeeding. Lessons learned through monitoring company practises on the ground feed back to inform policies at international and national level. Efforts to protect breastfeeding and appropriate infant feeding practises in general, take place alongside efforts to promote and support breastfeeding. Together, protection, promotion and support are achieving increases in breastfeeding rates in many countries.

IBFAN's work focuses on protection. Baby food marketing is increasingly regulated. Threats to these gains are detected early and, to varying degrees, countered.

The success of IBFAN's strategy

IBFAN was formed to campaign in the first instance for a strong International Code of Marketing of Breastmilk Substitutes. Although not all of its wishes for the Code were taken on board, it is fair to say that the majority did find their way into the final draft. Ten Resolutions clarifying and amplifying the International Code had been adopted by 2002. Behind all of these Resolutions lies a great deal of work by IBFAN in researching and developing appropriate policies, communicating these around the network, lobbying at national level to brief delegations to the WHA and lobbying at the Assembly itself.

The same strategy of pursuing global standards is repeated at other relevant international policy-setting bodies such as the International Labour Organisation (on rights for working women), the World Summits for Children and the Codex Alimentarius Commission. The last of these, Codex, was early perceived by IBFAN to pose a threat to all the gains that have been made, as it is Codex standards, rather than WHA Resolutions, that the World Trade Organisation defers to in deciding if a national regulation is justified on health grounds or is an unfair barrier to trade. The dominance of Codex meetings by industry-linked or industry-funded delegates and lobbyists demonstrates that industry has drawn the same conclusion.

Implementing the International Code and Resolutions

Having measures at an international level has been invaluable for bringing in measures at a national level, though it is a regrettable facet of industry intransigence that arguments won at the WHA have to be repeated in every country. Support in terms of training of national groups and policy makers, global exposure of company malpractice and letter writing campaigns to politicians has sometimes been critical in moving forward implementation at a national level.

All the Case Study countries have implemented the International Code and Resolutions to some extent: The Case Studies illustrate that struggles over the Code and Resolutions are never over. So, whereas those in Bolivia and Kenya may feel that getting the measures implemented in national law is the priority to protect breastfeeding, the Indian Case Study indicates that getting the law enforced is the next hurdle, while further down the line is the task of tackling marketing practices not covered by the existing implementation of the Code and Resolutions (such as depicting older infants or promoting complementary foods, or advertising different foods of the same name and packaging as infant formula).

Constant pressure on governments as well as industry is needed. Even if a government actively supports the Code and Resolutions, such as in India and Brazil where the governments tried to protect breastfeeding even before the WHA approved the 1981 International Code, legislation can still be delayed because of the influence of industry on parliamentarians. Policy makers need to hear the consistent message that it is essential to implement the International Code and Resolutions from health and social justice advocates to counterbalance industry pressure and the general perception that increased trade and market growth is always desirable. Otherwise the lobby can fail at the final hurdle.

Enforcing the Code and Resolutions - the need for independent monitoring Monitoring is the key to IBFAN's success.

At a national level monitoring helps to achieve the primary objective of saving infant lives by exposing and stopping some of the malpractice. It also demonstrates the need for legislation or the need to strengthen existing measures. It identifies new marketing strategies.

Monitoring feeds back up to the international level and informs the issues to be addressed in the reviews every two years of the Code and Resolutions at the WHA. It provides evidence to the UN Committee on the Rights of the Child when implementation of the Code and Resolutions is considered and to events such as the European Parliament Public Hearing into Nestlé malpractice.

Monitoring also identifies the worst culprits, showing Nestlé to be far ahead of its industry competitors in terms of the scale of violations and the degree of contempt for the provisions of the Code and Resolutions, and is used in promoting the international Nestlé boycott. Even though companies have tried to stall or prevent legislation, they have been largely kept out of monitoring national measures or the International Code and Resolutions (a company's obligation, independently of government measures, to ensure that company conduct at every level conforms to the Code's provisions, as set out in Article 11.3, remains).

In practice, monitoring is mainly carried out by NGOs and not the government, either by default - because the government is not doing anything - or by delegation - in Bolivia, the relevant government body has appointed IBFAN to monitor. However, because of a lack of resources monitoring is not systematic or constant. NGOs are also involved in letting the authorities know about the violations they discover as a result of their monitoring. Indeed, in India, two IBFAN groups have been officially delegated to do so (along with two government bodies), although Nestlé is challenging this. Several countries provide for sanctions if a company infringes national laws but the English and Belgian fines are paltry compared with revenue from sales of breastmilk substitutes.

Of all the Case Studies, only India mentioned companies actually being prosecuted - and one of those cases (against Nestlé) has become stalled in the courts. In the summer of 2003 Wyeth was successfully prosecuted in England by the Trading Standards Authority. In other countries authorities may stop violations through a warning when complaints are made, but seem reluctant to take up expensive court cases. The impact on the time and resources of NGOs is also a consideration.

As the Bolivian Case Study commented, 'the legal and judiciary system in Bolivia is slow and cumbersome; it is often under the sway of politicians and influential individuals; corruption is high; and legal actions take time and money.¹ But the lack of prosecutions or the fact that sanctions are weak do not mean that legislation or monitoring is ineffective. In England, Wyeth's fine for illegal advertising amounted to 3 minutes turnover for the company. The adverse publicity and the precedent were far more important.

In Brazil, the industry is more compliant with national legislation, particularly since the Government stepped up its monitoring, without legal actions being brought. Generally, the industry would seem to be more aware of damage to its image than before, as publicising the results of monitoring has a negative effect on a company's reputation and credibility, even if there are no legal repercussions.

Although violations continue, the Case Studies suggest that certain kinds of baby food promotion can be targeted, even if a country, such as Bolivia, has not implemented the Code and Resolutions in national legislation. National measures and the very existence of the International Code and Resolutions have clearly made a difference by acting as a benchmark or standard to which those concerned with people's survival and health can continue to hold corporations to account. Naming and shaming powerful corporations takes courage as the results are not welcomed. Companies are disparaging of IBFAN's monitoring and either deny violations, accuse monitors of hoarding violations instead of reporting them (as if the violations were unknown to the people who instigated them) and dispute the interpretation of the Code and Resolutions.

The strategy is to label the monitoring as somehow biased, extending this complaint to any organisation or grouping which criticises company marketing activities. The effective answer to this is to have the documentary evidence to back up the claims of malpractice, which IBFAN monitoring achieves. However, gaining media attention for monitoring results is another challenge. Baby food companies have a great deal of influence on the media as most have a wide range of products and so large advertising budgets. Companies sometimes threaten legal action against the media, which may be sufficient to persuade an editor to drop a story rather than having the inconvenience and expense of lawyers checking it is not open to challenge.

One sign that industry's attempt to marginalise and discredit IBFAN and other campaigners has failed is that they are now desperate to engage in 'dialogue'¹ so they can say to other organisations and the public that they are in discussions to resolve the differences they have with their critics. Meeting for the sake of meeting, without clear terms of reference (including minuting and reporting procedures) and clear objectives is not seen as constructive by IBFAN. Industry's responsibilities are already clearly defined and the evidence shows that companies will comply if compelled to do so.

The bad faith shown by the industry when bound only by voluntary codes, and its misrepresentation of past meetings means that a careful risk/benefit analysis is required before any meeting. The Case Studies indicate that the industry is active in all Case Study countries in the mass media, in professional medical associations and hospitals, and reaching out to the general public. Cause-related marketing activities, where a company links its name to a good cause under government or a charity's auspices, are also being seen.

New communication technologies have had different effects in different countries. In Bolivia, little effect was noticed, whereas in India, advertising on cable television networks reached such a height that the Government passed a law banning the promotion of infant formulas on cable television. Most Case Studies identified some sort of banned promotion through the media, mainly television and radio, but also magazines and newspapers. Promoting health - breastfeeding versus artificial feeding Promotion of breastmilk substitutes has an effect even if women cannot afford the products. All kinds of complementary foods and other milks, powdered and condensed, are given to infants at too early an age. In Bolivia, some mothers imitate artificial feeding practices they have seen in advertisements, but give teas, juices and water instead. In Kenya, the Case Study noted that 'Exclusive breastfeeding is now rare but the use of infant formulas is not widespread either'¹. Medical professionals in private hospitals seem almost guaranteed to promote bottle-feeding, whereas in public hospitals and clinics, the advice is mixed.

Several Case Studies pointed out that women were often 'worried into'¹ using breastmilk substitutes by promotion suggesting that their breastmilk was not sufficient or nutritious enough. Lack of information and support includes a general lack of awareness among women and medical professionals of the benefits of breastfeeding, the hazards of artificial feeding, the correct way to prepare formula, and how to tackle breastfeeding problems. Promotion and encouragement of breastfeeding needs to accompany monitoring. In all the countries, there are range of activities such as mother support groups, and newer, imaginative ideas such as training postal workers in Brazil to promote the practice.

The Case Studies looked in particular at: the UNICEF Baby Friendly Hospital Initiative; training; World Breastfeeding Week; and national policies on childcare, rooming-in and breastfeeding. Where breastfeeding rates are increasing, it is due to the efforts to promote breastfeeding and because of the checks and balances on the baby food industry for which IBFAN and others have worked so hard. The groups and agencies working to protect infant health need continued resources to build on their achievements to date and, perhaps more importantly, to stop them being undermined. The baby food industry never sleeps in its attempts to find new ways to build its market.