

## Call to action

### Protecting infant health: IBFAN stands up to a new initiative by the Bill and Melinda Gates Foundation

A few years ago, the Bill and Melinda Gates Foundation (BMGF) turned its attention towards infant and young child feeding, a badly underfunded and neglected area of public health and nutrition. As traditional government donors pay little attention to this crucial area, it may seem like good news. However, when BMGF's supported initiatives disregard basic principles that ensure the independence, integrity and credibility of public health policy making, those believing in primacy of human rights may need to sit up and pay attention. IBFAN believes that the **Global Monitoring Mechanism** (GMM), a new project supported by BMGF, calls for such attention and calls for it now, before irreversible steps have been taken.

#### What is the Global Monitoring Mechanism and IBFAN's position?

The Global Monitoring Mechanism (GMM) is a new project conceived as a multi-stakeholder *partnership* "based on the principle of progressive realization towards full Code compliance". It is facilitated by the Meridian Institute (MI), but conceived and funded by the BMGF. Multi-national and national baby food companies are foreseen as members of the project, together with the UN, governments, CSOs, donors and philanthropic foundations. At the outset, IBFAN had expressed serious misgivings about this project, pointing out to both BMGF and MI the risks of the GMM approach.

We explained that this would not be the first time when it comes to enforcing corporate Code compliance that corporate social responsibility (CSR) is tried out. IBFAN has plenty of evidence that shows what it leads to. To illustrate, we take – in a real nutshell – one example from the human rights arena. In late 90s the UN came close to having in place a set of binding "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights". Post the Seattle WTO demonstrations that disrupted the negotiations round in 2000, Kofi Annan, then the UN Secretary General, launched his initiative, the Global Compact, at the Davos World Economic Forum. The basic notion: if we give industry 'incentives' through recognition they will comply with the 9 (by now 10) principles. The UN HR Commission was closed down and ultimately all the work on the Norms abandoned. Shortly after the Human Rights Council (HRC) was established to replace the Commission, Professor Ruggie, the architect of the Global Compact, led a process resulting in 2011 in the development of the "Ruggie's Principles", officially known as the *Guiding principles on business and Human Rights*. The Guiding Principles received strong criticism from civil society as they were seen to "risk undermining efforts to strengthen corporate responsibility and accountability for human rights" even before their adoption in 2011. And indeed, they did not and do not seem to adequately work. Perhaps because "due diligence" is put as a central concept and defined for this purpose as "the steps and processes by which a company understands, monitors and mitigates its human rights impacts". In the infant feeding arena this means business as usual. Companies such as Nestlé developed their own interpretation of the International Code, claimed that they monitor against their interpretation and will make remedies. However, their interpretation neither corresponds with that by the UN bodies (UNICEF and WHO) nor with IBFAN's understanding. And infant feeding arena is far from being an isolated case.

Therefore, in an unprecedented vote, members of the HRC demanded to start a new process towards a binding treaty on HR and business. So in a sense back to where we were with the Norms 14 years ago. Had it not been for the Global Compact (and the lobby of the International Chamber of Commerce, headed at that time by the former CEO of Nestlé), there would have been legally binding Norms, in which, by the way, the Code and subsequent relevant WHA resolutions were recognized. Meanwhile, millions of people suffered from human rights abuses, including infants and their mothers.

Therefore, the idea of the GMM along the multi-stakeholder model is a very worrisome prospect. Not only does it violate the basic principle of "no one should be the judge in his own cause" but it ignores the fact that corporations such as baby food manufacturers, must have at the core of their operations, the maximization of profits. It is the basis of their existence. We do not question this reality. However, for this exact reason, such companies do not and cannot put the respect of human rights above their own profit-making priorities. Their

taking part in any process of designing and developing public interest policies and programmes, let alone in monitoring the Code, is like inviting a fox to build a chicken house. This is not acceptable. Governments and public institutions have the obligation to protect public health and implement the Code and national laws. Baby food companies and manufacturers are required to comply with the Code, the WHA subsequent resolutions and the national laws. Each party has its own proper role. IBFAN, together with its allies, has achieved a lot in keeping corporations out of the political decision-making aimed at setting laws, policies and programmes in public interest.

## **NetCode: Network for Global Monitoring and Support for Implementation of the International Code of Marketing of Breast-milk Substitutes and Subsequent relevant World Health Assembly Resolutions<sup>1</sup> (the Code)**

The GMM proposal comes at the time when another initiative to further compliance with the International Code has been set up and is being implemented. It is called *NetCode: Network for Global Monitoring and Support for Implementation of the International Code of Marketing of Breast-milk Substitutes and Subsequent relevant World Health Assembly Resolutions*. *NetCode* is an initiative coordinated by WHO and UNICEF. IBFAN has actively participated in it since its beginning, in 2015.

Interestingly, the Bill and Melinda Gates Foundation (BMGF) also provides funding to support this initiative<sup>2</sup>. The NetCode members agreed to actively contribute to the Goal of strengthening Member States' and civil society capacity to monitor the International Code and relevant WHA resolutions; and to facilitate the development, monitoring and enforcement of national Code legislation by Member States, by bringing together a group of committed actors to support these processes .

The NetCode is **not** open to individuals working for the private sector, to public-private partnerships or to multi-stakeholder initiatives. WHO explained that this was because its members must not have Conflicts of Interests which could interfere with their work towards the vision, goal and objectives of the NetCode.

### **GMM vs NetCode**

In a Note of Dissent shared with BMGF and MI, IBFAN withdrew from any GMM activities, seeing no potential benefits to be gained from GMM in terms of adding to the efforts of existing independent monitoring and reporting mechanisms. GMM rather risks undermining them and diverting attention and resources from sustainable efforts by national groups. It also risks undermining the work of NetCode.

### **Call to action**

In the light of the above, it is extremely important that you become aware of this situation and help us to challenge it, as an individual, organization, and as a community. The main actors need to be informed as soon as possible, as the meeting that will further discuss the GMM is planned for 30 November-1 December, 2017, in Frankfurt, Germany. Invitations have been extended to NGOs, civil society, baby food companies and Member States of the United Nations – with offers of financial assistance. Governments will be also invited to participate. All need to be alerted if they are to take a clear position.

We launch this call to alert on public-interest actors and to ask them to join us in challenging the misguided Global Monitoring Mechanism initiative of BMGF **with the aim of stopping it. To express your support, please sign this document or write to Alessia Bigi at [alessia.bigi@gifa.org](mailto:alessia.bigi@gifa.org)**

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<sup>1</sup> [www.who.int/nutrition/netcode/en](http://www.who.int/nutrition/netcode/en)

<sup>2</sup> IBFAN has publicly expressed its concerns about the potential risks arising from a close relationship between the Foundation and the NetCode, considering the Foundation's investment portfolio. IBFAN has also openly stated that any initiative coming from WHO and UNICEF should be financially supported by Member States and not by a philanthropy not at arm's length from the private sector. For this reason, the participation of IBFAN to the NetCode is possible as long as IBFAN does not receive any direct funding from the BMGF.