

Reflections on the « Breast-milk Substitutes Lessons Learned Workshop Highlights

(30 November-1 December 2017, Hilton Hotel, Frankfurt, Germany).

The Meridan Institute (MI) shared with IBFAN the report about the Frankfurt meeting, a step in a process towards an initiative originally called *global monitoring mechanism (GMM)*. In analyzing the information contained in the report we have used a simple discourse analysis:

- What is said
- How it is said
- And what has been left out

With this optic in mind, IBFAN finds the report very informative. Unfortunately, the information it reveals only reinforces and increases IBFAN's concerns. We will not reiterate these concerns as IBFAN expressed them in interviews and written exchanges with both MI and Bill and Melinda Gates Foundation (BMGF) and finally in **IBFAN Note of Dissent** (12 May 2017)¹. With this Note IBFAN dissociated itself from the process "to identify common interests and goals that could underpin the creation of a global monitoring mechanism (GMM)" and asked allies to support its [Call to Action](#). The Frankfurt meeting was the latest step in this process of which IBFAN is aware of and against which the network raised objections².

Based on the MI report, this meeting appears to have been an exercise conducted according to engineering of consent PR strategies.³ Otherwise it is difficult to explain the outcome of the meeting: a recommendation to continue a process whose major aim seems to be to bring transnational corporations (TNCs) that manufacture products under the scope of the International Code of Marketing of Breastmilk Substitutes into spaces where they do not belong; a recommendation that deliberately ignores voices, whether from NGOs or UN civil servants, which were not in favour of this approach.

The Meridan Institute GMM approach can be classified as a *corporate social responsibility (CSR) initiative* in the form of a 'multi-stakeholder- dialogue (often also called multistakeholder initiative- MSI, public-private partnership -PPP and now multistakeholder partnership- MSP). The defining feature of such CSR initiatives is that the key 'stakeholders' not to be missing at the table are TNCs.

There is ample evidence that this type of "CSR" approaches does not work but that they have often been used by corporations to work against legally binding regulations and to weaken civil society efforts to hold corporations accountable. A review of research on CSR initiatives concluded that mainstream CSR analyses tended to be "conceptually thin", "empirically weak," and "ahistorical". It also described them as "politically naïve" because the positive assessments were "shying away from the key question of how power relations impact policy and practice."⁴

¹ https://ibfan-icdc.org/files/IBFAN-Note-of-Dissent-BMS-Situation-Assessment-Report_Final.pdf

² http://www.babymilkaction.org/archives/15050#_ftnref2

³ Richter, J. (1998). Engineering of Consent: Uncovering Corporate PR. [Briefing paper](#). Dorset, The CornerHouse. <http://www.thecornerhouse.org.uk/resource/engineering-consent> (see in particular analytical model, Pagan Strategy and box 3)

⁴ Utting, P. M., José Carlos, Ed. (2013). [Corporate social responsibility and regulatory governance: Towards inclusive development?](#) International Political Economy Classics. London, Palgrave Macmillan & UNRISD, Preface to the second edition, p. xxii. [Peter Utting is a former Deputy Director of UNRISD and long-time coordinator of the research programme on corporate social responsibility]

Yet, based on the MI meeting report, we cannot see any such evidence having been presented to the participants in Frankfurt. Nor can we see any new evidence which would support the need for a public-private CSR approach in the marketing of infant food arena. The participants did not seem to have received crucial information that such approaches have been shown to undermine efforts to:

- work for more effective, i.e. legally-binding regulation of harmful corporate marketing practices, with adequate enforcement mechanisms, and means of redress and compensation of victims.
- hold corporate actors accountable through industry-independent monitoring and naming-and-shaming

Had the MI carried out an unbiased evaluation of the necessity to set up a new public-private corporate responsibility initiative in the field of infant feeding, it should have found a warning based on research which showed long ago:

“Historically, progress associated with corporate and social responsibility has been driven, to a large extent, by state regulation, collective bargaining and civil society activism. Increasing reliance on voluntary initiatives may be undermining these drivers of corporate responsibility.”⁵

Instead the report suggests basing whatever MSI may evolve from the Gates-funded process on an assessment “whether such a process can help **your organization, business** or external constituencies **advance its/their interests**”. This is highly problematic. The aim of any actor involved in an effort towards Code compliance should be exclusively towards advancement of this public health and nutrition agenda. Put in human rights terms, effort towards ensuring the respect, protection and fulfillment of human rights. This is in fact, also one of the duties of infant food companies under the Convention of the Rights of the Child.

The suggestion to build “trust”, a.o. through the forging of “personal connections” as another important aspect of this process highlighted in the report is also highly problematic, in particular from the conflict of interest and institutional corruption stand point. It is known that trust given to undeserving entity or person can undermine public trust in the public-interest actor who gives it blindly. The fact that this first face-to-face meeting has started building such personal connections under the shield of secrecy [Chatham House rule] is even more disconcerting. **Transparency** is a key principle in public-private interactions as stated in any treatise on conflicts of interest and in UN organizations’ guidelines on public-private engagement.

The report also uses the words “**transformational change**”. These are now often appearing in literature promoting multi-stakeholder/public-private partnership approaches. Yet, MSIs/MSPs are the kinds of relationship most likely to undermine the integrity of public health agencies. Analyses from an institutional corruption perspective show this clearly⁶.

⁵ Utting, P. (2000). *Business responsibility for sustainable development. Occasional paper No 2, Geneva, United Nations Research Institute for Social Development (UNRISD)*.

⁶ Marks J.H. “Toward a Systemic Ethics of Public-Private Partnerships Related to Food and Health,” *Kennedy Institute of Ethics Journal*, 24(3): 267–299 (2014) and Marks J.H. “Caveat Partner: Sharing Responsibility for Health with the Food Industry?” *American Journal of Public Health*, 107(3): 360-361 (2017). The arguments in

Similarly problematic is the notion of finding **champions** for this new undertaking. It is one thing to find such champions for promoting human rights, as UNICEF does; it is entirely another matter to look for champions, i.e. work towards “celebrity endorsement”,⁷ for an undertaking that may undermine legally binding regulations. Have participants of the meeting been reminded that this type of **image transfer** works in two ways?

We find the idea that “**willingness to take risks**” was welcome for the building of this undertaking distressing. Risks for who? The real costs will not be borne by the Meridian Institute, the Bill and Melinda Gates Foundations or those who agree to participate. Infants and children will pay a ‘price’ in terms of unnecessary, commerciogenic ill-health and deaths. Taxpayers will possibly pay a price in terms of wasted public resources since the reflections in Frankfurt meeting included “incentives” for corporations to behave more socially responsible. (Or are the unspoken ‘incentives’ the undermining of regulation and the sidelining of critics in the ranks of public servants, health care professionals and civil society organisations?). If the proposed initiative results in undermining efforts to make TNCs comply with the Code and children will suffer due to inadequate protection from commercial pressures, who will take responsibility? The funder of the initiative? The organizer who continued to present skewed analyses which support a continuation of the exercise? Those who agree to the conditionality of secrecy and who may start legitimizing a potential public-private ‘dialogue’ and potential monitoring mechanism with corporate involvement by not staying away or dissociating from it?⁸ This is a key question to which there must be an answer. Yet, the report does not even address this issue.

Finally, we would like to highlight why IBFAN has been concerned about “dialogues”, such as the Frankfurt meeting, which are not transparent, held under Chatham House rules with a secret list of participants: They run counter the principle of transparency and the duty of any public-interest organization to promote space for public scrutiny⁹. By agreeing with the rules under which the

both pieces are further elaborated in Marks J.H., *The Perils of Partnership: Industry Influence, Institutional Integrity, and Public Health* (Oxford University Press, forthcoming 2018).

⁷ Zubcevic-Basic, N. (2016). "US election: what impact do celebrity endorsements really have?".

<http://www.electionanalysis2016.us/us-election-analysis-2016/section-2-campaign/us-election-what-impact-do-celebrity-endorsements-really-have/>

⁸ The report talks about the need to reach a „critical mass of stakeholders“ and the lesson that NGO help ensure „credibility“. This is what IBFAN heard when the Global Compact was established. A very short while the organisers feared that there would not be enough NGOs subscribing to it and that they could therefore not call it a MSI.

⁹ For example, it runs counter the “core principle” of “Supporting transparency and scrutiny” of the *2003 OECD Guidelines Managing Conflicts of Interest in the Public Sector*.

<http://www.oecd.org/governance/ethics/oecdguidelinesformanagingconflictsofinterestinthepublicservice.htm>

Transparency is also quoted as key principle for public-private interactions in the UN Global Compact *Guidelines on a Principle-based Approach to the Cooperation between the United Nations and the Business Sector* (revised version 2015, para 25) <https://www.unglobalcompact.org/library/3431>; and WHO’s 2016 *Framework for Engagement with Non-State Actors* (Rationale 4 & Principle 5.h.)

http://www.who.int/about/collaborations/non-state-actors/A69_R10-FENSA-en.pdf?ua=1 (while IBFAN agree with this principle, it disagrees, e.g. the alleged ‘principle’ of ‘inclusiveness’ for corporate ‘stakeholders’; there is an urgent need to evaluate to what extent these guidelines truly enable UN agencies, its officials and civil servants to work in the public interest. Both guidelines have been established under a policy ideology favouring

meeting was organized, the participants from public organisations risk to jeopardise public trust and be seen as becoming part of another emerging “web of influence”¹⁰.

Furthermore, UN agencies, governments and NGOs are in serious danger of accepting, and even promoting, a dichotomy between ‘constructive dialogue’ or ‘partnership’, on the one hand, and ‘non-constructive’ or ‘counterproductive controversy’ and confrontation, on the other. An analysis based on a long-term UNICEF consultancy argued: “This sharp division ignores the fact that controversy is an inherent, often constructive and innovative, part of democracy. Rule-setting, particularly the regulation of transnational corporations is a highly political process in which challenges and healthy distrust are no less valuable, and often more appropriate, than uncritical cooperation and trust. The long-standing efforts to end the harmful marketing practices of infant food manufacturers illustrate that conflict must sometimes be prolonged until there is real change”¹¹.

If there is no possibility for public scrutiny by those who care but do not wish to be aligned with a process that runs against WHA collective decisions, democratic processes suffer.

Conclusion:

IBFAN continues to believe that this BMGF- sponsored “multi-stakeholder” initiative represents uncalled-for brokering of undue public-private entanglement at all cost. Were any public-private monitoring mechanism to result from it, it can be predicted to undermine decades of progress in building up legally-binding effective regulation of marketing practices, supported by industry-independent corporate accountability efforts.

We wish to stress that it is not interactions between the public and the commercial sector per se which are at issue here. IBFAN maintains that the infant food industry has a role to play in infant nutrition. But, this role must be appropriate. In fact, the *2002 Global Strategy on infant and young child feeding* (para 44) clearly stipulates their roles: to comply with the International Code and WHA resolutions as a minimum standard, and to manufacture according to the Codex Alimentarius standards. Such products should be reasonably priced for the minority of infants who need them. Relevant human rights instruments also highlight the obligation of companies to respect human rights and thus to comply with the Code.

With this public reaction to the Frankfurt meeting, we appeal to the funders of this initiative, to governments, the UN, and public-interest NGOs in the words of the former UNRISD’s researcher on corporate social responsibility, Peter Utting¹²: “You have a choice. You can either be a party to

public-private partnering). See e.g. Lhotska & Gupta (2016) *Whose health: The crucial negotiations for the World Health Organization’s Future*, APPS Policy Forum, 19 May <http://www.policyforum.net/whose-health/>

¹⁰ For more details on this phenomenon, see e.g. Miller, D., Harkins, C., Montague, B. and Schlogl, M.; (2017). *Impact of Market Forces on Addictive Substances and Behaviours: The web of influence of addictive industries*. Oxford, Oxford University Press.

¹¹ Richter, J. (2002): Codes in context: TNC regulation in an era of dialogues and partnerships.” *The Corner House, Briefing Paper No. 26, February* www.thecornerhouse.org.uk/sites/thecornerhouse.org.uk/files/26codes.pdf

¹² Peter Utting: *UN-Business Partnerships: Whose Agenda Counts? Paper presented at seminar on Partnerships for Development or Privatization of the Multilateral System?*, organised by the North-South Coalition, Oslo, Norway, 8 December, 2000

corporate strategies of reputation management or an ally of the global corporate accountability movement and insist, in stronger terms than it has been to date, that business improve its human right, social and environmental record”.

For the above reasons:

1. The so called GMM initiative should be publically stopped.
2. Meridian Institute and /or the public-interest participants of the Frankfurt meeting should make the list of the participants public. Otherwise this secrecy risks creating a widespread distrust that any person in the infant and young child feeding arena might be used as a conduit of undue corporate influence as well as of corporate intelligence on the ongoing efforts of independent Code implementation and Monitoring.

Such actions should not be hindered by the fear to be labelled as ‘adversarial’ to corporate ‘partners’ or ‘confrontational’. As community organiser Saul Alinsky once said:

"Conflict is the essential core of a free and open society. If one were to project the democratic way of life in a musical score, its major theme would be the harmony of dissonance".¹³

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[http://www.unrisd.org/80256B3C005BCCF9%2F\(httpAuxPages\)%2FA687857BD5E36114C1256C3600434B5F%2F%24file%2Futting.pdf](http://www.unrisd.org/80256B3C005BCCF9%2F(httpAuxPages)%2FA687857BD5E36114C1256C3600434B5F%2F%24file%2Futting.pdf)

¹³ Quoted in Richter (2002), op.cit.