



**BREASTFEEDING AND THE RIGHT TO SEXUAL AND REPRODUCTIVE HEALTH**  
**Contribution to the General Comment on the right to sexual and reproductive health**  
**by IBFAN and WABA**



In the light of the upcoming General Comment on the right to sexual and reproductive (SRH), **the International Baby Food Action Network (IBFAN) and the World Alliance for Breastfeeding Action (WABA)** would like to bring to the attention of the Committee on Economic, Social and Cultural Rights some key issues related to breastfeeding.

Breastfeeding has not been properly recognized by the international community as an essential part of women's reproductive cycle or as a sexual and reproductive right although there are sufficient medical, legal and social grounds to expound it as such. From a human rights perspective, several international instruments already provide basis for breastfeeding to be interpreted as a human right, related directly to the right to health and to food. However, breastfeeding is constantly undervalued and threatened, because of misinformation and commercial pressures, or because it is a maternal practice seen by some as being incompatible with other roles that women have, in particular their occupational role. Dominant social values, structures and institutions, which are rapidly spreading across the globe, often exploit and undervalue women's physical needs and both their productive and reproductive contributions.

**Hence the international community needs to recognize the protection and facilitation of women's right to breastfeed as a component of their right to sexual and reproductive health.**

This note sets out the reasons why we consider breastfeeding to be a key issue which should be addressed by a General Comment on the right to SRH, and indicates how this issue should be addressed by the Committee. Based on our experience and research, we make the following **recommendations** with regard to the General Comment on the right to sexual and reproductive health:

1. The General Comment should recognize that breastfeeding is a fundamental element of women's reproductive lifecycle. It offers enormous health benefits for both the mother and child. Therefore the General Comment should explicitly acknowledge the right of women to breastfeed as part of the right to sexual and reproductive health.
2. The General Comment has the potential to add value to existing guidance by the Convention on the Rights of the Child and other human rights treaties with regards to the obligation of States to protect, promote and support breastfeeding as part of interrelated and interdependent human rights - such as the right to adequate food and to the highest attainable standard of health.
3. The General Comment should recognize the right of women to make an informed decision on whether or not to breastfeed. For this reason State parties should protect all parents and communities at large from misinformation and guarantee that they receive full and unbiased information which presents breastfeeding as the norm to feed infants and correctly presents the risks for the mother and the child related to artificial feeding.
4. The General Comment can add value to existing guidance from the CRC Committee and UN agencies, such as WHO and UNICEF, regarding States' obligation to fully implement the *International Code of Marketing of Breastmilk Substitutes*. It should recognize the right of women and parents not to be exposed to undue pressure from breastmilk substitute producers and distributors through advertising or any other form of promotion.
5. The General Comment should address the obligation of State parties to ensure that women and parents have access to a comprehensive range of health services that support them in their decision to breastfeed their infants.
6. The General Comment should stress the importance of a gender equitable approach to health and address the obligation of State parties to eliminate gender discrimination. The General Comment should require that this is reflected in all policies and programmes related to sexual and reproductive health, including those that deal with breastfeeding.
7. The General Comment should address the obligation of State parties and all sectors of society to ensure that there are no obstacles for all women who wish to work and breastfeed. For this purpose it should urge States to adopt appropriate maternity protection legislation that reflects international standards such as ILO Convention No. 183 (2000) as well as appropriate national measures for women working in the informal sector.

## **Background: Women's Health Movement and the sexual and reproductive health and rights**

Since the early 1980s, the Women's Health Movement (WHM) has fought for international recognition of a *reproductive and sexual health and rights framework* which characterises women as subjects rather than objects of population policies. At the various UN International Conferences on Women and on Population (Bucharest, 1974 and Mexico City, 1984), as well as at the International Conference on Population and Development (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995) - the WHM has advocated to governments to replace conventional population policies, narrowly equated with family planning services, with a human development approach that respects human rights and reproductive health rights. Key proponents of the WHM, call for women's health policies and programmes that provide holistic approaches, particularly in the area of reproductive health.

The WHM has defined *reproductive health* broadly, to encompass not just safe contraceptive methods, but also safe abortion and prevention and access to comprehensive health services which address problems of sexually transmitted diseases and HIV/AIDS. Safe maternity - which includes adequate care for women during pre-pregnancy, pregnancy, childbirth, and the post partum period – should be contained in this definition. **Reproductive health refers to a state of complete physical, mental and social well-being in all matters relating to the reproductive system and processes.**

One of the better accepted descriptions of *women's health* is given in the Statement of the Health Caucus to the NGO Committee on the Status of Women (CSW). This statement adopted on 9 March 2000 at the CSW had the following preamble to women's health:

Health is a fundamental human right. The basic human rights of young and adult women and girls to health include the right to life, to liberty and security of person; to equality before the law; to the highest attainable standard of physical and mental health, including sexual and reproductive health; to privacy and confidentiality; to marry; and to choose if and when to have children and under what conditions. They also include the right to full and reliable medical information; to informed consent, *choice and decision making in health care, reproduction and infant-feeding*; to safe and equitable conditions of work and environment; and to the benefits of scientific progress (emphasis added).

Ensuring women's complete health requires recognition and respect for women's *reproductive rights*<sup>1</sup> and sexual rights understood as the right to self determination and pleasure in sexuality, basically having control over one's body. The terrain of *reproductive and sexual rights* is defined in terms of power and resources:

Power to make informed decisions about one's own fertility, child bearing, child rearing, gynaecologic health, and sexual activity; and resources to carry out such decisions safely and effectively. This terrain necessarily involves some core notion of "bodily integrity," or "control over one's body." However, it also involves one's relationships to one's children, sexual partners, family members, community, caregivers, and society at large; in other words, the body exists in a socially mediated universe. (Correa and Petchesky, 1994: 107)

Respect for women's *reproductive choice*<sup>2</sup> is fundamental to the reproductive and sexual rights framework, which is founded on four ethical principles: bodily, integrity, personhood, equity and respect for diversity. All of them are essential to ensure the enabling conditions for the realisation of reproductive and sexual rights.

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<sup>1</sup> Chapter 2 of the International Conference on Population and Development (ICPD) Programme of Action affirms the fact that reproductive rights are recognized in national laws, international human rights documents and other United Nations consensus documents. It confirms that "Everyone has the right to enjoy the highest attainable standard of physical and mental health, including in the areas of sexuality and reproduction."

<sup>2</sup> The right of *reproductive choice* is a key element of reproductive rights, enshrined in the Convention on the Elimination of Discrimination against Women (CEDAW). Article 16 requires that "State parties shall take all appropriate measures to eliminate discrimination against women relating to marriage and family relations" and goes on to list several aspects of marriage and family relations where the basis of equality should operate and, in the context of reproductive choice. The critical value of CEDAW on this issue is its recognition of the individual (in this case the woman) over and above the family, recognizing that prominence given to the family as the basic unit in society can work against women's equality. (Boland, et al., 1994: 94-95)

## 1. Recognize breastfeeding as a reproductive health and rights issue

The General Comment should recognize that breastfeeding is a fundamental element of women's reproductive lifecycle. It offers enormous health benefits for both the mother and child. Therefore the General Comment should explicitly acknowledge the right of women to breastfeed as part of the right to sexual and reproductive health.

Breastfeeding IS an essential part of women's reproductive cycle: it is the third link after pregnancy and childbirth. It is during the third part of the reproductive cycle - the post-partum period - that breastfeeding is established.

Breastfeeding is best framed as a reproductive and sexual right because if women are denied the opportunity to freely choose it they are stripped of bodily integrity and are denied the opportunity to enjoy the full potential of their body for "health, procreation and sexuality"<sup>3</sup>. Consistent with the ethical principles that underpin reproductive and sexual rights, this would mean that women are denied full personhood in equal measure with men since men have no equivalent bodily function over which they are denied control. In addition, since breastfeeding is a dyadic experience, children are also denied the health and life enhancing benefits of breastfeeding. Thus, the right to breastfeed does not disappear with the fact that some women may choose alternative modes of feeding their children.

**The General Comment provides an opportunity to acknowledge the role of breastfeeding in the reproductive cycle while recognizing the highly beneficial effects that it brings to mother and child health.**

There are many health advantages of breastfeeding for women and children, especially if a woman breastfeeds exclusively for 6 months as recommended by the WHO<sup>4</sup>. The scientific evidence is unambiguous: exclusive breastfeeding for 6 months followed by appropriate complementary feeding practices, with continued breastfeeding for up to 2 years or beyond, provides the key building block for child survival, growth and healthy development.

Regarding women's health, breastfeeding immediately after birth helps the uterus to contract. This prevents haemorrhages which is a major cause of maternal deaths in many countries. Breastfeeding aids in the mother's recovery after birth and helps her to return to her normal weight faster. Continued exclusive breastfeeding at night inhibits the return of ovulation and menstruation, offering the mother protection from iron deficiency anaemia and is a natural method of child spacing: the Lactational Amenorrhea Method (LAM). LAM is better for many women than any other contraceptive method available. Recognizing it as an effective, safe, available and culturally accepted contraceptive practice, often within the control of women, will give prominence to breastfeeding within the scope of women's reproductive health. LAM should be integrated within the broader demand for good reproductive and sexual health services. Therefore women should have the right to receive information on how to use breastfeeding as a contraceptive as part of information on various contraceptive options.

Breastfeeding also has long term benefits on women's health, such as protection against the risk of breast and ovarian cancer. A prolonged period of breastfeeding and adequate child spacing may alleviate any potential bone loss. Bone mass may even be greater in women with a history of breastfeeding.

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<sup>3</sup> Correa and Petchesky, 1994: 113

<sup>4</sup> WHA 2002 Resolution 55.15 – Global Strategy for Infant and Young Child Nutrition

## 2 Breastfeeding and international human rights instruments

The General Comment has the potential to add value to existing guidance by the Convention on the Rights of the Child and other human rights treaties with regards to the obligation of States to protect, promote and support breastfeeding as part of interrelated and interdependent human rights - such as the right to adequate food and to the highest attainable standard of health.

Several international instruments make a strong case for protecting, promoting and supporting breastfeeding as a vital part of interrelated and interdependent human rights, related to the right to adequate food and to the highest attainable standard of health. These include the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (CESCR) and its General Comment No. 14, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC). They stipulate the right of every human being, man, woman and child, to optimal health, to the elimination of hunger and malnutrition, and to proper nutrition. **Adequately interpreted, these treaties support the claim that “breastfeeding is the right of every mother, and it is essential to fulfil every child’s right to adequate food and the highest attainable standard of health.”**

The CRC in particular, has placed breastfeeding high on the human rights agenda. Article 24 mentions specifically the importance of breastfeeding as part of the child’s right to the highest attainable standard of health.

States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: [...] (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents. (Art 24.2 (e))

The CESCR provides another base of support for breastfeeding as a sexual and reproductive health right. Article 12 supports the broader obligation to ensure women's right to SRH, and by extension, women's right to breastfeed; Article 10 focuses on specific protection needed for working mothers to enable them to combine gainful employment with their reproductive roles of giving birth, child feeding and childcare.

## 3. Women (and parents) should have the right to make an informed decision on breastfeeding

The General Comment should recognize the right of women to make an informed decision on whether or not to breastfeed. For this reason, State parties should protect all parents and communities at large from misinformation and guarantee that they receive full and unbiased information which presents breastfeeding as the norm to feed infants and correctly presents the risks for the mother and the child related to artificial feeding.

Reproductive rights, as interpreted by the Women's Health Movement, include the right of women "to full information about sexuality and reproduction, about reproductive health and health problems, and about the benefits and risks of drugs, devices, medical treatments and interventions [...]; and good quality, comprehensive reproductive health services that meet women’s needs and are accessible to all women".

*Breastfeeding as a reproductive right* therefore implies that full information about the health and reproductive benefits of breastfeeding should be available to all women, regardless of sex, age, ethnicity, religion, or social position, and also be available to all members of society. Information on the benefits of breastfeeding for women’s and children’s health, as well as its benefits to communities and workplaces is essential if women are to be fully informed and make the best possible choices for their reproductive lives. This also implies that the risks of medical interventions such as drugs taken during delivery (that impede breastfeeding initiation) as well as the risks of artificial feeding should be made known to women.

#### **4. The International Code of Marketing of Breastmilk Substitutes as a concrete measure to guarantee objective information on breastfeeding.**

The General Comment can add value to existing guidance from the CRC Committee and UN agencies, such as WHO and UNICEF, regarding States' obligation to fully implement the *International Code of Marketing of Breastmilk Substitutes*. It should recognize the right of women and parents not to be exposed to undue pressure from breastmilk substitute producers and distributors through advertising or any other form of promotion.

The International Code was adopted by the World Health Assembly (WHA) in 1981, as a minimum universal standard to protect and promote appropriate infant and young child feeding. States have been urged to implement it entirely together with all subsequent relevant WHA resolutions.

The International Code is a specific set of guidelines that regulate marketing and advertising of breastmilk substitutes without prohibiting their distribution and sale. It aims at guaranteeing that parents and communities receive unbiased information on breastfeeding, free from commercial pressure. The International Code was adopted following lengthy debate concerning the unethical advertising and marketing practices of the baby food industry which promote inappropriate and unnecessary use of breastmilk substitutes. It became evident over the years that these practices were having disastrous consequences on infant health and infant lives, especially in developing countries.

Since 1997, the Committee on the Rights of the Child has recognized that the “implementation of the International Code by State parties is a concrete measure towards the realisation of parents' right to objective information on the advantages of breastfeeding and, thus, to fulfilling the obligation of Article 24.2.(e).”<sup>5</sup> It systematically recommends governments to fully implement the International Code.

#### **5. The realisation of the reproductive right of women to breastfeed requires support and a full range of health services**

The General Comment should address the obligation of State parties to ensure that women and parents have access to a comprehensive range of health services that support them in their decision to breastfeed their infants.

If women are to be able to breastfeed as recommended, society bears a *responsibility* to support them. Specifically, this *social responsibility* means that protection, respect, facilitation and fulfilment of these rights require universal recognition of the importance of breastfeeding as a *social function*, supported by public funds and/or private funds as appropriate. Every woman should be able to count on full support from those around her to enable her to initiate and sustain breastfeeding. It is the responsibility of the State and the entire community to see that the best possible nutrition and health are available to all of its members, beginning with the youngest.

Breastfeeding as a reproductive right also implies that lactation management is part of high quality, comprehensive reproductive health services which is made available for free or at a low-cost. This important clinical and counselling support should be accessible to all women and provided, as appropriate, in hospitals, health clinics, reproductive health programs and other sites servicing women's

<sup>5</sup> R. Hodgkin, P. Newell, *Implementation Handbook for the Convention on the Rights of the Child*, UNICEF, 2002, pp. 357.

health needs. This implies the right of women to have access to good parental services and mother/baby friendly health care facilities. It also implies the need for continuous training and updating of health personnel on issues related to breastfeeding, including WHA recommendations related to infant and young child feeding.

## **6. Breastfeeding and the principle of non-discrimination**

The General Comment should stress the importance of a gender equitable approach to health and address the obligation of State parties to eliminate gender discrimination. The General Comment should require that this is reflected in all policies and programmes related to sexual and reproductive health, including those that deal with breastfeeding.

The Convention for the Elimination of Discrimination against Women (CEDAW) specifies that to discriminate against women on the basis of their reproductive status (pregnancy and lactation) is a clear form of gender discrimination. Since only women can be pregnant, give birth and breastfeed, to discriminate against a pregnant or breastfeeding woman is to discriminate on the basis of sex.

The protection and promotion of sexual and reproductive health is fundamentally a matter of gender inequality: the biological differences between men and women create differences in physical and health needs. Ignoring the specific needs and rights of women's sexual and reproductive health is discrimination on the basis of sex and leads to gender inequality. Breastfeeding, as a unique biological function of women alone, requires specific measures to protect women against discrimination. This must be understood and acknowledged by States, and should also be reflected in the design of relevant health policies and programmes.

## **7. The realisation of the reproductive right of women to breastfeed requires adequate maternity protection at the workplace.**

The General Comment should address the obligation of State parties and all sectors of society to ensure that there are no obstacles for all women who wish to work and breastfeed. For this purpose it should urge States to adopt appropriate maternity protection legislation that reflects international standards such as ILO Convention No. 183 (2000) as well as appropriate national measures for women working in the informal sector.

Breastfeeding is that aspect of nurturing that covers both child feeding and child care, requiring mothers and babies to be together for as long as possible. WHO recommends that working mothers be entitled to at least 4 months' paid leave after delivery for mothers to recover physically and to establish optimal breastfeeding. It is important to note that the main reason given by majority of working mothers for ceasing breastfeeding is their return to work following maternity leave.

To ensure exclusive breastfeeding for the global recommended period of 6 months, State parties need to ensure legal measures to protect and support women's right to breastfeed in public and at work. In addition, it is essential to facilitate workplace accommodations, such as having a clean safe place and the time necessary to feed and/or to express breastmilk. Women must also be free from workplace sexual harassment, have flexible working conditions, and a supportive supervisor. ILO Convention No. 183 (2000) and Recommendation No. 191 (2000) on Maternity Protection provide the minimum standards for national law and practice. However, for women working in the informal sector, other protective and supportive measures (such as breastfeeding support and peer counselling) need to be in place where legislation may not apply.

**8. The realisation of the reproductive right of women to breastfeed depends on the enjoyment of a range of interrelated rights.**

A reproductive health and rights approach to breastfeeding requires looking at women's health, nutritional and social status. For example, we need to know if women are adequately nourished; whether her social environment is supportive of or impedes breastfeeding; whether she is empowered to make the right decision and has the information and know how to sustain optimal breastfeeding for the recommended period; whether she is experiencing physical, sexual, or psychological abuse and violence or whether she is experiencing gender discrimination at work, all of which could make breastfeeding more difficult. Women's reproductive rights to breastfeed can be best supported and facilitated when we contextualize women's lives in their broader social and economic dimensions.

Framing breastfeeding as part of a woman's sexual and reproductive rights acknowledges that she has the right to decide for herself whether or not to breastfeed. It further acknowledges that in order to be able to actualize her decision to breastfeed, the conditions of her domestic, occupational, and public lives must truly support her in this decision. She must be empowered personally and at the same time the environments within which she lives - the health and legal systems, her family and kin networks, her workplace and her community - must be enabling.

## ANNEX: PROFILE OF THE ORGANISATIONS



### **INTERNATIONAL BABY FOOD ACTION NETWORK (IBFAN)**

The International Baby Food Action Network (IBFAN) was founded on October 12th, 1979 after the joint meeting of WHO and UNICEF on Infant and Young Child Feeding. It now consists of more than 200 public interest groups working around the world to reduce infant and young child morbidity and mortality. IBFAN aims to improve the health and well-being of babies and young children, their mothers and their families through the protection, promotion and support of breastfeeding and optimal infant feeding practices. IBFAN works for universal and full implementation of the International Code of Marketing of Breastmilk Substitutes and subsequent relevant WHA Resolutions.

The groups that formed IBFAN were instrumental in putting the marketing of foods for infant and young children onto the health agenda, resulting in the 1979 meeting referred to above. IBFAN then campaigned for adoption of a strong and effective marketing code. The International Code of Marketing of Breastmilk Substitutes was adopted by the World Health Assembly in 1981. Through continued vigilance and regular monitoring of industry practices, new marketing strategies and developments in thinking on infant nutrition have been brought to the attention of delegates at the World Health Assembly leading to the adoption of further Resolutions which aim to react to these new developments and strengthen the Code as an instrument of protection of infant and mothers' health and rights.

IBFAN emphasizes local action. National IBFAN groups, health professionals and consumer advocates are trained to monitor the Code. The monitoring provides data on Code violations as well as cases where the baby food industry has interfered with the process of governments adopting national codes and laws. Among the many other activities undertaken in collaboration with intergovernmental organizations (e.g. WHO, UNICEF, UNHCR) and NGO partners, IBFAN also works on the following issues: Infant Feeding in Emergencies, Rights of the Child, Codex Alimentarius, Maternity protection, HIV and breastfeeding, etc. IBFAN was the 1998 recipient of the Right Livelihood Award (Alternative Nobel Prize).



### **WORLD ALLIANCE FOR BREASTFEEDING ACTION (WABA)**

The World Alliance for Breastfeeding Action (WABA) was founded in 1991, as a global network of individuals and organizations concerned with the protection, promotion and support of breastfeeding worldwide and have over a thousand endorsers in over 120 countries.

WABA's actions are based on the Innocenti Declarations 1990 and 2005 and the Global Strategy for Infant and Young Child Feeding. The actions are grounded in a concern for human rights, as specified in the Convention of the Rights for the Child (CRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and contribute particularly to the realization of the UN Millennium Development Goals 4 and 5 in reduction of child mortality and improvement of maternal health. WABA's Core Partners are:

- Academy for Breastfeeding Medicine (ABM)
- International Baby Food Action Network (IBFAN)
- International Lactation Consultant Association (ILCA)
- La Leche League International (LLL)
- Wellstart International (WI)

WABA is in consultative status with UNICEF and is an NGO in special consultative status with the Economic and Social Council of the United Nations (ECOSOC). WABA's vision is of a world where breastfeeding is the cultural norm, where mothers and families are enabled to feed and care optimally for their infants and young children thus contributing to a just and healthy society. WABA's mission is to protect, promote and support breastfeeding worldwide in the framework of the Innocenti Declarations (1990 and 2005) and the Global Strategy for Infant and Young Child Feeding through networking and *facilitating collaborative efforts* in social mobilization, advocacy, information dissemination and capacity building.