

The Infant Milk Substitutes...Amendment Bill, 2002

More a Formality than an Attempt to Address the Real Concerns?



The recent developments and findings of international agencies as well as researchers reveal that ideally the infant thrives best on exclusive breast-feeding for the first six months of life and continued breast-feeding, together with complementary foods for the first two years. The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Amendment Bill, 2002, seeks to amend the existing Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, (the Principal Act), accordingly. The Bill, however, has no provisions with regard to, *inter alia*, effective promotion and protection of breast-feeding; adequate monitoring of the implementation of the Act.; and mandatory writing of warning and other information in Hindi and other local languages on labels of the products within the scope of the Act.

The Bill at a Glance

Highlights

- ◆ The definition *inter alia* of “advertisement” is widened to include ‘electronic transmission’ and ‘audio visual transmission’. Thus, substantially prohibiting any kind of advertisement within the scope of the Principal Act.
- ◆ The period for exclusive breast-feeding of infants is extended from first four months of age to six months, along with a recognition of the need for continued breast-feeding up to two years of age with complementary foods.
- ◆ Any kind of promotion of the products within the scope of the Principal Act is completely prohibited, by inserting *Clause (j)*, defining “promotion”. Similarly, the Bill prohibits any kind of sponsorship, contribution, etc., to a health worker or any association of health workers by any producer, supplier or distributor of the products covered by the Principal Act.

Lowlights

- ◆ The Bill leaves out the much-desired provision to protect breast-feeding rights of women within the health system, the work place and the community.
- ◆ It fails to provide for the creation of a mechanism to monitor the implementation of the Principal Act to study company practices and examine the plethora of products, brands, packages and advertisements in the market place.
- ◆ There is no provision, either in the Principal Act or in the Bill, to promote the culture of breast-feeding; educate the masses about the importance of exclusive breast-feeding and the health hazards of improper use of breast-milk substitutes; and ensure adequate nourishment for pregnant and lactating women below poverty line.

Action Points

- There should be a provision in the Bill to establish a mechanism involving NGOs to monitor the implementation of the provisions of the Principal Act.
- Use of pictorial methods to illustrate the superiority of breast-milk, important notice and hazards of improper use of the concerned product should be made mandatory. Besides, provision for the labels of the products covered by the Act should carry the same information in Hindi and other local languages.
- The provision for confiscation of the products that violate the provisions of the Principal Act should be made stricter. This could be done by not allowing such products to be returned to their respective producer/manufacturer or seller, coupled with heavy penalty for such violation. Therefore, the Bill should have suitable provisions to amend the Principal Act accordingly.
- There is a need to develop social support systems to protect, facilitate and encourage breast-feeding and eliminate factors that inhibit it. The Principal Act should be amended accordingly.
- Provision for educating and informing people about the critical importance of exclusive breast-feeding and other related issues is a must. This would be an attempt to arrest the high rate of malnutrition and its associated ills amongst the children.
- The Principal Act should accommodate provisions ensuring adequate nourishment for poverty-stricken pregnant and lactating women. The Bill needs to be revised accordingly.
- Since the legislation is required to deal with various aspects of breast-feeding, it is imperative to change its name suitably. A suggested name could be ‘The Protection of Breastfeeding Rights and Regulation of Infant Milk Substitutes Act’.

Bill Blowup

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Twenty Years of Social Change
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Consumer Unity
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#1/2003

Introduction

Breast-feeding and the related issues are of utmost importance to a healthy foundation and well-being of children. These issues warrant a proper consideration by the legislature, as inappropriate feeding practices and their consequences are recognised to be the major obstacles to sustainable socio-economic development and poverty reduction. (See Box 1)

It entails: (a) taming of the recalcitrant manufacturers/sellers/distributors of the products in question. (b) protecting and promoting breast-feeding and the breast-feeding rights of the pregnant and lactating woman and her nourishment. The challenge cast upon the legislature is manifold.

On the basis of the difficulties faced during the course of implementation of some of the provisions of the Act, a view to encourage continued breast-feeding and to prohibit all forms of advertising and promotion in relation to infant milk substitutes, feeding bottles and infant foods is also taken into consideration. The Bill labours to spell out certain definitions of the Act clearly, in order to address the problems faced.

Though the proposed Bill tries to address some issues of concern but misses many important ones.

Need for the Legislation

According to the 'statement of objects and reasons', the need to amend the Principal Act arose with regard to the following:

- (a) problems faced during the course of its implementation;
- (b) the recent findings pointing towards the importance of exclusive breastfeeding for the first six months of life, as well as continued breastfeeding together with complementary foods for the first two years; and
- (c) World Health Organisation's resolution WHA 47.5 of 9th May 1994, calling upon Member Nations to aim at achieving the above goal.

However, the Bill, in its statement of objects and reasons, does not even mention the importance of promoting and protecting the culture of breast-feeding. Thus, this major concern remains ignored by the Bill. Similarly,

there are other concerns which call for a legislation to amend the Principal Act suitably.

The data prepared by the National Family Health Survey of India is an eye-opener. According to this, as many as 47 percent of the children in India under the age of three are underweight. This data also shows that exclusive breast-feeding is only 19.4 percent at 6 months and 54.2 percent at 3 months and only 33 percent infants are provided appropriate complementary foods between 6-9 months.

Similarly, there are several recommendations of the International Code (Box 2), the Innocenti Declaration (Box 3) and the Resolutions of the World Health Assembly (see resolution 55.25, Box 1) which need to be incorporated in the Indian legislation.

Advertisements and other promotional activities taken out by various commercial infant foods manufacturing companies have had enormous effect on a large number of families in both urban and rural areas. Often, they have defied the provisions of the Act, causing reasonable concern about their activity.

Box 1: The Concerns

- Every year as many as 55 percent of infant deaths from diarrhoea and acute respiratory infections may be the result of inappropriate feeding practices.
- Less than 35 percent of infants world-wide are exclusively breast-fed for even the first four months of life.
- Complementary feeding practices are frequently ill-timed, inappropriate and unsafe.
- A large degree of global burden of disease is attributed to inappropriate infant and young child-feeding practices, which includes:
 - (a) malnutrition and its consequences such as blindness and mortality due to vitamin A deficiency, (b) impaired psychomotor development due to iron deficiency and anaemia, (c) irreversible brain damage as a consequence of iodine deficiency, (d) the massive impact on morbidity and mortality of protein-energy malnutrition, and (e) the later-life consequences of childhood obesity.
- Inappropriate feeding practices and their consequences are major obstacles to sustainable socio-economic development and poverty reduction.
- Infant and young-child mortality can be reduced through:
 - (i) improved nutritional status of women of reproductive age, especially during pregnancy;
 - (ii) Exclusive breast-feeding for the first six months of life; and
 - (iii) continued breast-feeding up to the age of two years or beyond with nutritionally adequate and safe complementary feeding through introduction of safe and adequate amounts of indigenous foodstuffs and local foods.

Source: *Resolution of the World Health Assembly, No. 55.25 of 18 May 2002.*

Apart from the constitutional imperatives, there is a UN Convention on the Rights of the Child, duly ratified by India. The Convention puts the responsibility on the government to take appropriate measures, *inter alia*, to lessen infant and child mortality, combat disease and malnutrition and ensure pre-natal and post-natal health care of mothers (See Box 4).

Concerns and Suggestions

The proposed Bill to amend the Principal Act, in its present form, leaves out several important aspects of breast-feeding. They should have been taken into consideration in order to address the concerns associated therewith.

The issues of concern on various aspects related to breast-feeding, as gleaned from the available data, the concerns voiced by the World Health Assembly through its resolutions, the recommendations of the Innocenti Declaration as well as the International Code, are as follows:

- promotion and protection of the culture of breast-feeding;
- adequate nourishment for the pregnant and lactating woman;
- the problem of malnutrition and inappropriate breast-feeding; and

Box 2: Recommendations of the WHO/UNICEF's International Code of Marketing of Breast-Milk Substitutes

- Member-states should give priority to preventing malnutrition in infants and young children by, *inter alia*, supporting and promoting breast-feeding, taking legislative and social action to facilitate breast feeding by working mothers and “regulating inappropriate sales promotion of infant foods that can be used to replace breast-milk”.
- Appropriate and timely complementary feeding (weaning) practices with the use of local food resources should be promoted and supported.
- Education, training and information on infant and young child-feeding should be strengthened.
- The health and social status of women in relation to infant and young child health and feeding should be promoted.
- There should be appropriate marketing and distribution of breast-milk substitutes.
- Governments should develop social support systems to protect, facilitate and encourage breast-feeding. They should create an environment that fosters breast-feeding, provides appropriate family and community support and protects mothers from factors that inhibit breast-feeding.
- It is the responsibility of the government to ensure that objective and consistent information is provided on infant and young child-feeding for use by families and those involved in the field of infant and young child nutrition.
- There should be no advertising or other forms of promotion to the general public of products within the scope of this Code.

- effective implementation and monitoring of the legislation.

Promotion and Protection of the Culture of Breast-feeding

A legislation to promote and protect the culture of breast-feeding requires the following:

- (a) a clear recognition of the critical importance of exclusive breast-feeding for the first six months of life and continued breast-feeding along with complementary foods up to two years of age;
- (b) a declaration that women of reproductive age have a right to breast-feed their children;
- (c) specifications with regard to punishment for the guilty, in the event of denial of such a right;
- (d) guidelines in support of protecting the breast-feeding right of working women, to be issued to all the organisations, establishments, departments (government and non-government, private, individual employers etc.); and
- (e) provision for education and information dissemination amongst masses about the importance and necessity of breast-feeding and the woman's right in this regard.

Box 3: Excerpts from the Innocenti Declaration on the Protection, Promotion and Support of Breast-feeding

- All women should be enabled to practice exclusive breast-feeding and all infants should be fed exclusively with breast-milk from their birth to 4-6 months of age. Thereafter, children should continue to be breast-fed, while receiving appropriate and adequate complementary foods, for up to two years of age or beyond.
- Attainment of this goal requires, in many countries, the reinforcement of a “breast-feeding culture” and its vigorous defence against incursions of a “bottle-feeding culture”.
- Obstacles to breast-feeding within the health system, the workplace and the community must be eliminated.
- Measures should be taken to ensure that women are adequately nourished for their optimal health and that of their families.
- National authorities are further urged to integrate their breast-feeding policies into their overall health and development policies.
- Protection of the breast-feeding rights of working women must be ensured.

The Problem of Malnutrition

Inadequate breast-feeding and incorrect introduction of complementary feeding are the major causes of malnutrition.

The International Code of Marketing of Breast-milk Substitutes recognises that inappropriate feeding practices lead to infant malnutrition, which is part of the wider problems of lack of education, poverty and social injustices.

Besides, there is a need to ensure adequate nutrition for the pregnant and lactating woman. Therefore, the overall development and health policies should take care of the concerns associated with breast-feeding, malnutrition, etc.

Monitoring Mechanism

There is a need to create a mechanism, involving NGOs and the civil society. It should be entrusted with the task of monitoring the implementation of the provisions of the Act, as well as taking appropriate measures to educate and inform people about the importance of breast-feeding and its promotion. Such a mechanism will also play a role in identifying and eliminating the obstacles to breast-feeding within the health system, the workplace and the community.

The mechanism, thus created, should be target-oriented. The efforts made by it should result in eliminating malnutrition in children and other problems pertaining to inadequate breast-feeding or improper use of infant milk substitutes and baby foods.

Box 4: Article 24 of the Convention on the Rights of the Child

1. States Parties recognise the right of the child to the enjoyment of the highest attainable standard of health and facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) to diminish infant and child mortality;
 - (b) to ensure provision of necessary medical assistance and health-care to all children, with emphasis on development of primary health-care;
 - (c) to combat disease and malnutrition, including within the framework of primary health-care, through, *inter alia*, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - (d) to ensure appropriate pre-natal and post-natal health care for mothers;
 - (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 breast-feeding, hygiene and environmental sanitation and the prevention of accidents;
 - (f) to develop preventive health-care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realisation of the right recognised in the present Article. In this regard, particular account shall be taken of the needs of developing countries.

Conclusion

The importance of exclusive breast-feeding during the most crucial period of the child's life is well established through several reputed researches. Most of these are authenticated by a body none other than the World Health Organisation itself. In addition, the right of the child to the enjoyment of the highest attainable standard of health is recognised by nations one and all.

Practices adversely affecting the child's health and absence of adequate legislation to curb them amount to

violation and negation, respectively, of the said right. The responsibility on the part of the legislature with regard to amending the existing Act is far wider and serious than what appears at the first sight. Any compromise with this responsibility is a compromise with the child's well-being, which, in turn, is a compromise with the well-being of the nation itself. Devoid of the larger concerns, the Bill in its present form needs to be adequately reviewed, lest it proves to be a mere formality.