Breastfeeding as a human right

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1. Defining Human rights - and Breastfeeding as a HR

2. Who are the actors involved: rights holders vs. Duty bearers

3. Monitoring and accountability
Human Rights: A definition

- HUMAN RIGHTS are the rights that all people have by virtue of being human beings.
- HUMAN RIGHTS are derived from the inherent *dignity* and integrity of the human person

Aims of Human Rights:
- to protect the *inherent dignity and integrity of each and every human being*

**HR violations:** someone is not accepted in the hospital or not allowed to go to school because of his or her sex, or origin, or religion – or when a worker dies or is harmed because of bad working conditions again
Defining human rights

Human Rights are:
1. **Fundamental** – basic to human survival, dignity and development
2. **Universal** – it applies to everyone everywhere
3. **Inalienable** – HR cannot not be taken away from anyone
4. **Indivisible and interdependent** – closely connected to and dependent on the fulfillment of other human rights

Cross-cutting elements:
1. **Non-discrimination (equality)**: e.g. chances of enjoying good health must not be disadvantaged because of for example sex, race, colour, age, language, religion, disability, health status, etc.

2. **Participation**: The active involvement of people and groups in decision-making that affects them. → not a top-down approach
Sources of Human Rights

Human Rights are legally defined and guaranteed at:

*Global level*

**HR Declarations**: Universal Declaration of Human Rights (1948)

**HR Conventions/ Covenants**: International Covenant on Economic Social and cultural Rights; Convention on the Rights of the Child; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment; Convention on the Elimination of All Forms of Discrimination against Women; etc.

**General Comments** (interpret specific HRs): General Comment on the Right to Health; General Comment on Child’s right to Health; General Comment on Business and Child Rights.

**Principles, Guidelines, Recommendations, Protocols, Global strategies etc.**
Sources of HR

**Regional level:** European Convention for the Protection of HRs, Inter-American Convention on HRs, African Convention on Human and Peoples’ Rights, Arab Charter of Human Rights

No Asian Regional HR Charter!

**National/local level:**

=> translation into national legislation of international HR law

=> binding

=> must be implemented (applied, put into practice) – often need regulations by the government which complete the law.

**International Code:** becomes binding for governments only if adopted at the national level through a legal measure. Often requires regulations to be effectively implemented.
Is Breastfeeding a HR?

- **Breastfeeding**: the recommended practice by WHO: early initiation of breastfeeding, exclusive for 6 months and continued up to at least 2 years together with adequate complementary feeding.

- **Fundamental**:
  - for child survival, growth and development
  - to a woman’s reproductive cycle

- **Universal**: the most adequate feeding practice for all infants and young children: both in developing and developed countries. All women should have the right to breastfeed

- **Inalienable**: BF should not be taken away from a mother and her child

- **Interrelated and interdependent** with other rights: with the right of the woman to health care, to be free from violence, with the right of the women to food, shelter and a decent work, etc
BF: What rights are involved

Right to LIFE, SURVIVAL & DEVELOPMENT

Right to HEALTH

Right to ADEQUATE FOOD & NUTRITION

To a DECENT STANDARD of LIVING

Right to INFORMATION

To a balancing WORK & FAMILY RESPONSIBILITIES

Right to DECENT WORK
<table>
<thead>
<tr>
<th>Economic, Social and Cultural Rights</th>
<th>Women’s Rights</th>
<th>Child Rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right to health</td>
<td>Right to the highest attainable standard of health</td>
<td>Right to the highest attainable standard of health</td>
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<tr>
<td>Right to adequate food</td>
<td>Right to adequate food</td>
<td>Right to adequate nutritious food</td>
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<tr>
<td>Right to sexual and reproductive health</td>
<td>Right to sexual and reproductive health</td>
<td>Right to life, survival and development</td>
</tr>
<tr>
<td>Right to a decent work</td>
<td>Right to decent work and working conditions; Right to maternity protection</td>
<td>Right of parents to information on advantages of breastfeeding</td>
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<td></td>
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<td>Non-discrimination / Equality</td>
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CRC Article 24: High attainable standard of health

CRC: Convention on the Rights of the Child
- Adopted 1989, entered into force 1990
- Ratified by 193 countries (only 2 have not)

Article 24: Right to Health

Art 24.2.c:
« Combat disease and malnutrition [...] through the provision of adequate nutritious food »

Art 24.2.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, [...] »
• The SR considers that the protection of the right to food requires nothing less that direct intervention by States. **Regulating marketing practices** of the agrifood industry is essential as “[s]elf- regulation by the agrifood industry has proven ineffective”.

“[t]ranspose into domestic legislation the International Code of Marketing of Breast-milk Substitutes and the WHO recommendations on the marketing of breast-milk substitutes”.
• ILO Conventions (183 on Maternity Protection)
• General Comment 15 (2013) on Child’s right to health
• General Comment 16 (2013) on Business and Child Rights
• International Code of Marketing of Breastmilk Substitutes and WHA Resolutions
• National laws/ measures that implement the Code
• Global Strategy of Infant and Young Child Feeding
• Innocenti Declaration
• Etc.
BF: What rights are involved

- Right to LIFE, SURVIVAL & DEVELOPMENT
- Right to HEALTH
- Right to ADEQUATE FOOD & NUTRITION
- Right to INFORMATION
- To a DECENT STANDARD of LIVING
- To a balanced WORK & FAMILY RESPONSIBILITIES
- Right to a DECENT WORK
- Right to BREASTFEEDING

YES, BF is a HR
Those who are *entitled* to HRs and to *enjoying* them - Can claim their rights.

*Breastfeeding:*

- Babies and young children
- Mothers and other caregivers
A woman’s or a child’s right?

• *Is it only a child right?* → the duty of a woman to breastfeed.

  • *Is it only a woman’s right?* → opens the room for companies to present formula as a product useful to "liberate" women from "their duty“

Applies to the **mother-child dyad** and not to the child or mother only. The rights of the child and mother must not been seen in opposition.

**The right Breastfeeding** = women (caregivers) and children have the right to have a supportive, enabling environment for breastfeeding and to be supported in the mode of feeding they decide
The International Code

- Breastfeeding = a right of the dyad child mother

- This is the approach taken in the International Code of Marketing of Breastmilk Substitutes (and subsequent resolutions of WHA)

- The Code does not aim at preventing the use or availability of infant formula,

- Aims to ensure that there is an enabling environment where parents are not misled by commercial pressures and marketing

→ parents can make a fully informed decision on how to feed their children.
Duty Bearer: The State

The State (all State actors): has a legal obligation to ensure the realization of HR Obligations:

Respect: Refrain from adopting laws/measures that can prevent women from breastfeeding;

*E.g. Ban breastfeeding in public places; adopt guidelines that would push women to bottle-feed, etc.*

Protect: adopt laws/policies/measures that will protect Breastfeeding from violations by others and monitor their implementation:

*E.g. Adopt measures to protect mothers from marketing of breastmilk substitutes – by implementing the International Code + monitor its implementation; adopt a national policy on IYCF;*

Fulfil: take positive steps to ensure realization of the right:

*E.g. Allocate adequate budgetary resources to IYCF; BFHi; adequately train health workers; breastfeeding counselling and support;*
Committee on the Rights of the Child in its interpretation of States obligations to realize the right of the child to health:

“States’ obligations in this area [of breastfeeding] are defined in the “protect, promote and support” framework, adopted unanimously by the World Health Assembly.”

General Comment No.15 (2013) on the right of the child to health

→ The Global Strategy on Infant and Young Child Feeding
Non-State actors

Human Rights Responsibilities of Non-State Actors:

• **Baby food industry**: compliance with the International Code; and with Codex Alimentarius standards (food safety, labels, food quality)

→ The State must PROTECT from third parties violations of HR
HR Accountability

Accountability: making sure that duty-bearers are doing what they are supposed to do.

• Agents of accountability are societal actors that:
  – monitor the situation of human rights
  – seek to hold duty-bearers accountable

Breastfeeding:
How to make sure that governments are fulfilling their human rights obligations in the area of infant and young child feeding and are implementing the Global Strategy?
1) **Civil society actors** such as breastfeeding advocates that record and denounce violations, and claim human rights accountability
   
   – IBFAN

→ Monitoring of **Code Compliance** by companies and governmental actions to implement the Code

→ **World Breastfeeding trends initiative (WBTi)** is a participatory initiative that identifies gaps in the implementation of policies and programmes on breastfeeding that are framed in the *Global Strategy*

→ Contribute to HR accountability
Agents of Accountability

- **HRs Treaty Bodies** (HRs Committees): Oversee the implementation of HR Treaties, monitor State actions, make recommendations, follow-up, put pressure

  - Committee on the Rights of the Child (CRC Committee)
  - Committee on Economic Social and Cultural Rights,
  - Committee for the Elimination of all forms of Discrimination against Women;
  - HR Council;
  - Special Rapporteurs
  - Etc.
Committee on the Rights of the Child

– reviews what countries are doing to fulfil their human rights obligations as stipulated in the Convention on the Rights of the Child
– provides the governments with recommendations.
– 18 independent experts
– Meets three times a year
– Every country is (ideally) reviewed every 5 years

Since 1997, IBFAN and IBFAN-GIFA involved in CRC review process as civil society
Committee on the Rights of the Child

- **State Report** is submitted by the government to show what they have done to realize child rights.

- **Alternative report**: by NGOs to provide the CRC Committee on gaps in human rights.
  
  *2008-2012 IBFAN submitted 65 alternative reports to the CRC Committee = 73% of countries reviewed*

- Committee then provides **recommendations** to governments on the steps needed to advance child rights.
  
  - *2008-2012: 78% of countries reviewed by the CRC Committee received recommendations on breastfeeding.*
HR Monitoring by UN Bodies of Asian counties

- **CRC**: Committee on the Rights of the Child
  - 2014: India, Indonesia
  - 2015: Nepal, Bangladesh

- **CESCR**: Committee on Economic, Social and Cultural Rights
  - 2014: China, Indonesia, Viet Nam

- **CEDAW**: Committee on Elimination of all forms of Discrimination against Women
  - 2014: India, China

*Get in touch with IBFAN-GIFA to prepare information for these HR Bodies*
How to use the human rights framework in our work

• **Framing the issue**: understanding breastfeeding as a human right
• **Advocacy /Campaigns**: use the HR argument and approach in your advocacy work
• Claim **participatory decision-making** on IYCF: use the HR approach to ask for participation in decision making
• **Demand Government Accountability**: tell the government that what they have to do for breastfeeding falls under their human rights obligations
• **Monitor human rights violations** of Companies → Code monitoring
• **Monitoring/Assessment to identify gaps** → Use WBTi to see where the gaps stand in implementing HR in the area of IYCF
• **Capacity building** on human rights of civil society and government actors: build capacity of breastfeeding advocates to use the HR approach and demand HR accountability
• **Prepare alternative reports** for the CRC and other Human Rights Bodes (CESCR, CEDAW) → Use **WBTi reports**
Thank you!

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❖ For information on these HR Bodies: ina.verzivolli@gifa.org