THE COMMITTEE ON ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

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REPORT ON THE SITUATION OF MATERNAL HEALTH AND WORK-RELATED ISSUES IN COSTA RICA

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MICS 2011
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The right to health of women through the protection, promotion and support of breastfeeding

Working women that become mothers hold a double role that is not always easy to bear. Recognizing "the great contribution of women to the welfare of the family and to the development of society [...] [and] the social significance of maternity" (CEDAW Preamble) means acknowledging that it is a collective responsibility to create an **enabling environment for women to fulfil both roles of mother and worker**. Indeed, both maternity and work are means for women's empowerment and emancipation.

Women should be given the correct information as well as the legislative and institutional support to act in their children's best interest while continue working and being active in public life. To this end, **maternity protection** at work, and **adequate paid maternity leave** in particular, are critical interventions that States have the obligation to implement in order to realize the right of women to work, and at the same time the right to health of women and their children, allowing new mothers to rest, bond with their child and establish a sound breastfeeding routine. Therefore, working mothers are also entitled to healthy surroundings at their workplace, and more specifically, to breastfeeding breaks and to breastfeeding facilities.

Breastfeeding is an essential part of women's reproductive cycle: it is the third link after pregnancy and childbirth. It protects mothers' health both in the short and long term by, among others, reducing postpartum bleeding, aiding the mother's recovery after birth (synchronization of sleep patterns, enhanced self-esteem, lower rates of post-partum depression, easier return to pre-pregnancy weight), offering the mother protection from iron deficiency anaemia, delaying the return of fertility thus providing a natural method of child spacing (the Lactational Amenorrhea Method - LAM) for millions of women that do not have access to modern form of contraception, and decreasing the incidence of osteoporosis and the risk of ovarian-, breast- and other reproductive cancers later in life. For these reasons, **promoting, protecting and supporting breastfeeding is part of the State obligation** to ensure to women appropriate services in connection with the post-natal period and more generally, realize **women's right to health**. In addition, if a woman cannot choose to breastfeed because of external conditions, she is stripped of bodily integrity and denied the opportunity to enjoy the full potential of her body for health, procreation and sexuality. The right to breastfeed does not disappear with the fact that some women may choose alternative methods of feeding their children.

Optimal breastfeeding practices as recommended by WHO global strategy for infant and young child feeding[1] (early initiation of breastfeeding within one hour after birth, exclusive breastfeeding for 6 months followed by timely, adequate, safe and appropriate complementary feeding practices, with continued breastfeeding for up to 2 years or beyond) also provide the key building block for child survival, growth and healthy development[2]. Enabling women to follow such recommendations means empowering them by giving them the opportunity and support to best care for their child.

Breastfeeding and human rights

Several international instruments make a strong case for protecting, promoting and supporting breastfeeding, and 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. These include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in particular art. 1 and 5 on gender discrimination on the basis of the reproduction status (pregnancy and lactation), art. 12 on women's right to health and art. 16 on marriage and family life, the International Covenant on Economic, Social and Cultural Rights (CESCR), especially art. 12 on the right to health, including sexual and reproductive health, art. 11 on the right to food and art. 6, 7 and 10 on the right to work, the Convention on the Rights of the Child (CRC), especially art. 24 on the child's right to health. Adequately interpreted, these treaties support the claim that '**breastfeeding is the right of both the mother and her child, and is essential to fulfil every child's right to adequate food and the highest attainable standard of health**'. As duty-bearers, States have the obligation to create a protective and enabling environment for women to breastfeed, through protecting, promoting and supporting breastfeeding.

[1] WHO 2002, Global Strategy on Infant and Young Child Feeding, http://www.who.int/nutrition/publications/infantfeeding/9241562218/en/index.html

[2] IBFAN, What Scientific Research Says?, http://www.ibfan.org/issue-scientific-breastfeeding.html

1) General situation concerning breastfeeding in Costa Rica

WHO recommends: 1) **early initiation of breastfeeding** (within an hour from birth); 2) **exclusive breastfeeding** for the first 6 months; 3) **continued breastfeeding** for 2 years or beyond, together with adequate and safe complementary foods.[3]

Despites these recommendations, globally more than half of the newborns are not breastfed within one hour from birth, less than 40% of infants under 6 months are exclusively breastfed and only a minority of women continue breastfeeding their children until the age of two.

General data[4]

	2013	2014	2015
Annual number of birth, crude (thousands)	-	-	70
Neonatal mortality rate (per 1,000 live births)	6.4	6.3	6.2
Infant mortality rate (per 1,000 live births)	8.7	8.6	8.5
Under-5 mortality rate (per 1,000 live births)	10.0	9.9	9.7
Maternal mortality ratio (per 100,000 live births)	-	-	25
Delivery care coverage:			
Skilled attendant at birth	-	97%	-
Institutional delivery	-	99%	-
C-section	22%	-	-

Breastfeeding data

	2010	2011[5]	2016
Early initiation of breastfeeding (within one hour from birth)[6]	95.5%	59.6%	-
Exclusive breastfeeding under 6 months	21.2%	32.5%	-
Introduction of solid, semi-solid or soft foods (6-8 months)	91.6%	86.4%	-
Bottle-feeding (0-12 months)	47.9%	-	-
Continued breastfeeding at 2 years	-	27.5%	-
Median duration of breastfeeding (in months)	14.7	-	-

[3] www.who.int/topics/breastfeeding/en/
[4] Data retrieved from UNICEF: http://data.unicef.org/
[5] MICS 2011
[6] Data retrieved from the Costa Rica WBTi report of 2016, but related to 2010.

The breastfeeding rates are incredibly low in Costa Rica. Data on breastfeeding are not systematically collected so the last data available date back to 2011. It is indeed very important that Costa Rica enacts a systematic and regular data collection mechanism on Infant and Young Child Feeding (IYCF), in order to evaluate the results of the related policies and programmes, as well as to correct some of the worrying trends in the IYCF practices in the country. Specifically**, the early initiation of breastfeeding rate declined abruptly between 2010 and 2011, while the rate of exclusive breastfeeding under 6 months maintained a very low record in the same period. Only 3 out of 10 children under 6 months were exclusive breastfed, as of 2011.** The rate of continued breastfeeding at 2 years was also dramatically low in 2011, showing that there is a big potential for improvement.

2) Maternity protection for working women

> The main reason given by majority of working mothers for ceasing breastfeeding is their return to work following maternity leave. It is therefore necessary to make adjustments in the workload of mothers of young children so that they may find the time and energy to breastfeed. This should not be considered the mother's responsibility, but rather a collective responsibility. States should adopt and monitor an adequate policy of maternity protection in line with ILO Convention 183 (2000)[7] that facilitates six months of exclusive breastfeeding for women employed in all sectors, and facilitate workplace accommodations to feed and/or to express breastmilk.

Maternity leave

Scope: Maternity protection is conferred by the *Labour Code* and covers all working women in the public and private sectors.

Duration: 4 months (16 weeks) in total, with a possible extension of up to 3 months for medical reasons.

Benefits: Benefits amounting to 100% of salary; in the case of *miscarriage or premature non-viable birth*, the worker shall enjoy paid leave but reduced by half.

Paternity leave: No mention of a paternity leave.

Breastfeeding breaks

A breastfeeding worker is entitled to 15 minutes every 3 hours or, if preferred, 30 minutes twice during the working day, unless a medical certificate states that a shorter period of time is required. The employer shall also endeavor to ensure that the worker has the opportunity to take a rest period according to the possibilities relating to her employment.
Nursing breaks and rest periods will be calculated as hours worked (and therefore paid).

Breastfeeding facilities: Enterprises that employ more than 30 women are obliged to provide an appropriately equipped area in which women may safely nurse their children. Every employer of public and private institutions shall provide *adolescent mothers* with adequate conditions to nurse their children.

[7] ILO, C183 - Maternity Protection Convention, 2000 (No. 183)

Costa Rica has not ratified the ILO Convention 183 (2000) on Maternity Protection.

According to the last Costa Rica WBTi report[8], the establishment of the above-mentioned breastfeeding areas is not totally effective, because of the still pending approbation of the *'propuesta de reglamentación de Salas de Lactancia'*. There is no information available on the status of such drafted law.

3) International Code of Marketing of Breastmilk Substitutes

Evidence clearly shows that a great majority of women can breastfeed and will do so if they have the accurate and full information and support, as called for by the Convention on the Rights of the Child. However, **direct industry influence** through advertisements, information packs and contact with sales representatives, as well as indirect influence through the public health system, submerge women with **incorrect, partial and biased information**.

The International Code of Marketing of Breastmilk Substitutes (the International Code) has been adopted by the World Health Assembly in 1981. It is a **minimum global standard** aiming to protect appropriate infant and young child feeding by requiring States to regulate the marketing activities of enterprises producing and distributing breastmilk substitutes in order to avoid misinformation and undue pressure on parents to use such products when not strictly necessary. Even if many countries have adopted at least some provisions of the International Code in national legislation, the implementation and enforcement are suboptimal, and violations persist.

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All the provisions of the Code have been integrated in the Law and Regulation on the promotion of breastfeeding[9]. **However, such legal measures date back to 1994 and 1995 and have not been reformed or updated on the basis of the latest evolutions of the breastmilk substitutes market**. There is **no monitoring system** and no clear rules on how to proceed in case of a violation of the Code, even when such violations are directly reported to the National Breastfeeding Committee.

4) Baby Friendly Hospital Initiative (BFHI) and training of health workers

Lack of support for women to breastfeed by the health care system and its health care professionals further increase difficulties in adopting optimal breastfeeding practices. The Baby Friendly Hospital Initiative (BFHI), which consists in the implementation by hospitals of the 'Ten steps for successful breastfeeding', is a key initiative to "*ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period*"[10], including breastfeeding support within the health care system. However as UNICEF support to this initiative has diminished in many countries, the implementation of

[8] The full 2017 WBTi report is available at: www.worldbreastfeedingtrends.org/GenerateReports/report/WBTi-Costa-Rica-2017.pdf

[9] Law n. 7430 'Ley de Fomento a la Lactancia Materna' and its Regulation.

[10] CEDAW, art. 12.2

BFHI has significantly slowed down. Revitalization of BFHI and expanding the Initiative's application to include maternity, neonatal and child health services and community-based support for lactating women and caregivers of young children represents an appropriate action to address the challenge of adequate support.

As of May 2016, 11 hospitals out of 24 were labelled with the Baby-Friendly certification, as well as 18 clinics out of 24. However, the implementation of the BFHI has been interrupted in the last years. In fact, there is **no ongoing assessment on the compliance with the BFHI requirements in the health facilities that have been certified, and no request for designation of other health facilities.**

The training of health professionals has been significantly improved in the last years in Costa Rica. However, the curricula often do not include breastfeeding and there is an important disparity between the training of health professionals working in the public and private sector. According to the 2017 WBTi report, the health professionals working in the private sector receive insufficient training on breastfeeding compared to the professionals working in the public sector. Additionally, training on the International Code as well as on the Baby-Friendly Hospitals Initiative is also inadequate.

5) HIV and infant feeding

The HIV virus can be passed from mother to the infant though pregnancy, delivery and breastfeeding. The *2010 WHO Guidelines on HIV and infant feeding*[11] call on national authorities to recommend, based on the AFASS[12] assessment of their national situation, either breastfeeding while providing antiretroviral medicines (ARVs) or avoidance of all breastfeeding. The Guidelines explain that these new recommendations do not remove a mother's right to decide regarding infant feeding and are fully consistent with respecting individual human rights.

In Costa Rica, the estimated number of pregnant women living with HIV is lower than 200, and the estimated number of children (aged 0-14) newly infected with HIV is lower than 100 (UNICEF, 2015). The estimated mother-to-child transmission rate is 16%, as of 2015.

According to the information included in the Costa Rica 2017 WBTi report, the National Policy and regulations on the maternal care are not in line with the international recommendations. There is a lack of awareness-raising campaigns on infant feeding and HIV. Additionally, the interventions to prevent the mother-to-child transmission through breastfeeding are not monitored and analyzed.

[11] *2010 WHO Guidelines on HIV and infant feeding*: http://whqlibdoc.who.int/publications/2010/9789241599535_eng.pdf
[12] Affordable, feasible, acceptable, sustainable and safe (AFASS)

6) Government measures to protect and promote breastfeeding

Adopted in 2002, the ***Global Strategy for Infant and Young Child Feeding*** defines 9 operational targets:

1. Appoint a **national breastfeeding coordinator** with appropriate authority, and establish a multisectoral **national breastfeeding committee** composed of representatives from relevant government departments, non-governmental organisations, and health professional associations.

2. Ensure that every facility providing maternity services fully practises all the **"Ten steps to successful breastfeeding"** set out in the WHO/UNICEF statement on breastfeeding and maternity services.

3. Give effect to the principles and aim of the **International Code of Marketing of Breastmilk Substitutes** and **subsequent relevant Health Assembly** resolutions in their entirety.

4. Enact imaginative **legislation protecting the breastfeeding rights of working women** and establish means for its enforcement.

5. Develop, implement, monitor and evaluate a com**prehensive policy on infant and young child feeding**, in the context of national policies and programmes for nutrition, child and reproductive health, and poverty reduction.

6. Ensure that the health and other relevant sectors **protect, promote and support** exclusive breastfeeding for six months and continued breastfeeding up to two years of age or beyond, while providing women access to the support they require – in the family, community and workplace – to achieve this goal.

7. Promote timely, adequate, safe and appropriate **complementary feeding with continued breastfeeding**.

8. Provide guidance on feeding infants and young **children in exceptionally difficult circumstances**, and on the related support required by mothers, families and other caregivers.

- Consider what **new legislation or other suitable measures may be required**, as part of a comprehensive policy on infant and young child feeding, to give effect to the principles and aim of the International Code of Marketing of Breastmilk Substitutes and to subsequent relevant Health Assembly resolutions.

The National Policy on Breastfeeding has been adopted in 2009 and there is a National Breastfeeding Committee. However, this Committee includes among its member a representative of the industry and this affects its neutrality when it comes to the protection of breastfeeding. Additionally, the resources allocated for the implementation of the Committee's activities are not sufficient and they come mainly from international organizations.

Concerning the support to mothers to breastfeed, there is some community support and some voluntary support from the health staff in facilities providing maternity services. However, there is no national programme establishing such support, and the initiatives come from the individuals which are sensitive to the importance of optimal breastfeeding. There is a need for an institutional framework in order to ensure that the support to breastfeeding becomes more effective and systematic.

Costa Rica celebrates the **World Breastfeeding Week** every year. In 2016[13], the WBW was organized in the first week of August and included conferences, activities, sport events and other initiatives. However, besides the WBW, there is no specific national strategy on Communication, Information and Education related to infant and young child feeding in Costa Rica. The contexts of promotion of breastfeeding, such as the WBW itself, need to be free of Conflicts of Interests. Unfortunately, this is not the case in Costa Rica, where representatives of the baby food industry are actively participating to the celebrations of the World Breastfeeding Week.[14]

7) Recommendations on breastfeeding by the Committee on the Rights of the Child

The **Convention on the Rights of the Child** has placed breastfeeding high on the human rights agenda. Article 24[15] mentions specifically the importance of breastfeeding as part of the child's right to the highest attainable standard of health. Better breastfeeding and complementary feeding practices, the right to information for mothers and parents, the protection of parents by aggressive marketing of breastmilk substitute products – through the implementation of and compliance with the International Code of Marketing of Breastmilk Substitutes (WHO/UNICEF, 1981) - as well as the need for strong and universal maternity protection are now systematically discussed during State parties reviews by the CRC Committee.

At the last review in 2011 (Session 57), in its Concluding Observations, the CRC Committee recommended Costa Rica to "***strengthen the promotion of exclusive breastfeeding*** *up to the age of 6 months,* ***consider extending maternity leave accordingly while ensuring the rights of working mothers to a secure employment and salary and social security,*** *and impose appropriate penalties on companies* ***violating the International Code of Marketing of Breast-milk Substitutes*** *and monitor compliance with the Code;* ***train health professionals*** *on the importance of initiating breastfeeding within the first hour following childbirth and on the importance of avoiding bottle-feeding or feeding with breast-milk substitutes, to the extent possible; and initiate a process of* ***re-certification and certification of all hospitals and clinics as baby-friendly****."* (§ 60, emphasis added)

All of the topics mentioned in the CRC Committee recommendations relate to areas where further efforts and improvements are still needed in Costa Rica, as explained in the previous sections.

[13] The World Breastfeeding Week 2016 in Costa Rica: www.ministeriodesalud.go.cr/gestores_en_salud/lactancia/semana_mundial/2016/dm_actividades_alusivas_SMLM2016.pdf

[14] Source of information: Costa Rica 2016 WBTi report.

[15] *"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), CRC

About the International Baby Food Action Network (IBFAN)

IBFAN is a 37-year old coalition of more than 250 not-for-profit non-governmental organizations in more than 160 developing and industrialized nations. The network works for better child health and nutrition through the protection, promotion and support of breastfeeding and the elimination of irresponsible marketing of breastmilk substitutes. IBFAN is committed to the Global Strategy on Infant and Young Child Feeding (2002) – and thus to assisting governments in implementation of the International Code of Marketing of Breastmilk Substitutes (International Code) and relevant resolutions of the World Health Assembly (WHA) to the fullest extent, and to ensuring that corporations are held accountable for Code violations. In 1998, IBFAN received the Right Livelihood Award "for its committed and effective campaigning for the rights of mothers to choose to breastfeed their babies, in the full knowledge of the health benefits of breastmilk, and free from commercial pressure and misinformation with which companies promote breastmilk substitutes".

ANNEX: Evidence of Code violations in Costa Rica[16]

Inappropriate promotion: The World Health Assembly in resolution 63.23 [2010], calls on governments to end all forms of inappropriate promotion of foods for infants and young children. This covers complementary foods and toddler or growing-up milks (GUMs). Marketed for young children 1 to 3 years, GUMs are the fastest growing segment of products, due largely to aggressive marketing. Non-existent when the Code was introduced in 1981, GUMs were developed to circumvent Code restrictions. With the global recommendation for breastfeeding to continue up to two years and beyond, GUMs come under the scope defined in Article 2 of the Code.

In October 2013, the European Food Safety Authority said that the use of GUMs does not bring additional value to a balanced diet for young children.

DANONE: In Latin America, Danone markets through Nutricia which owns the Bebelac, Neocate and Nutrilon formula brands. Where implementation and enforcement are poor, Danone takes advantage by flooding hospitals with promotional materials ignoring the Code Article 11.3 which requires companies to give effect to the Code at every level irrespective of government action.

Happy and healthy-looking babies feature prominently in company materials found in Costa Rican hospitals. Hardly scientific or factual. Some, regarding food allergies, are aimed at parents. Others focus on the **Neocate** family of products – *"Nutrition appropriate for every age; products that grow with them"*. (Danone gave a global undertaking in May 2012 to stop distributing materials for the public through the health care system).

Labels: Article 9 of the Code requires labels to NOT discourage breastfeeding and to inform about the correct use of the product, the risk of misuse and and to abide by a number of other points. WHA resolution 54.2 [2001] advises exclusive breastfeeding for 6 months which means that the recommended age for use of complementary foods cannot be under 6 months. WHA 58.32 [2005] prohibits nutrition and health claims unless specifically provided for in national legislation.

[16] IBFAN-International Code Documentation Center. *Breaking the Rules: Stretching the Rules 2014,* available at: www.ibfan-icdc.org .

MEAD JOHNSON: The Mead Johnson infant formula for babies (below 6 months) and follow-up formula (above 6 months) have the same name and images. Only the figure *"2"* and the colour of the tin differentiate between the products, giving rise to confusion. The label of **Enfamil Premium 2** makes claims about "Triple Health Guard" to support brain, eye and immune system development.

Cause for confusion: same name, same design and same sales pitch of Triple Health Guard action.

(top left) **Avent** labels show pictures of mothers at rest with their babies and the statement *"clinically proven to help settle your baby especially at night"*.
(top right & centre) **Nuby** feeding bottles and teats are idealised by a cheerful baby and the more *"natural"* wide neck design.
(bottom) The label for **Pigeon**'s feeding bottle with *"peristaltic nipple"* shows on the back how it *"resembles mother's nipple"*.

Promotion of Breastmilk Substitutes:

A confusing discount using **NAN 3** shelf talker for **Nan** infant formula price reduction.

An outdoor banner explains how **NAN** products with *L reuteri* probiotics reduce crying and colic.

Using idealising image of mum and baby to promote the full **NAN** range.