



WORLD HEALTH ORGANISATION

INTERNATIONAL DIGEST OF HEALTH LEGISLATION

BOOK REVIEW

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JUDGEMENT RESERVED, Breast-Feeding, Bottle-Feeding & The International Code. Dayanath Jayasuriya, Adrian Griffiths and Raymond Rigoni, Asian Pathfinder Publishers, Nedimala Dehiwala, Sri Lanka. 1984.

Action Guide on Implementing the International Code of Marketing of Breast Milk Substitutes. Commonwealth Secretariat, UNICEF, New York in association with World Health Organisation, Geneva.

These two studies are the latest contributions to the continuing flow of international data on the breastmilk substitutes issue.

"Judgement Reserved" is a useful compilation of the background of material which led to the adoption, in 1981, of the International Code of Marketing of Breastmilk Substitute ("the Code"). It is divided into five chapters.

The first examines the origins of the Code. It refers to the article in August, 1983 in the New International, published in Oxford, which sparked off what was to become a serious confrontation between consumer groups and the infant formula industry. It outlines the 1974 study, the Baby Killer which captured the imagination of many consumer groups throughout the world. It outlines the efforts, particularly in the United States, to meet the tide of opposition through industry self-regulation. The scene then shifts to Geneva and the joint WHO/UNICEF efforts commencing in October, 1979 and culminating in

the 1981 consideration of the Code.

The second chapter examines the philosophy and "psychology" of the breastmilk substitutes controversy. It attempts to collect a critique of the activity of infant formula companies and includes the enumeration by this reviewer of the principal complaints, contained in a paper delivered at a workshop on the subject in Zimbabwe in 1983. The various defences offered by the companies, also contained in that paper, are listed. The full paper is now published. See M.D. Kirby, "The Role of Law Reform in Bioethics: The Case of Breast-Milk Substitutes" (1983) 6 University of N.S.W. Law Journal 67.

The authors are rather critical of both sides of the polemical debate. They instance the misuse of statistics, the loose epidemiological reasoning, the poor discrimination between formula and traditional supplements, the absence of adequate research data, the inadequate attention to maternal malnutrition and inefficient milk supply; the under-estimation of competing national interests and various other criticisms, some of more apparent justification than others. For example, it is suggested that supporters of breastmilk substitutes have consistently over-estimated the effect of breast feeding as a contraceptive and inadequately evaluated the potential of the industry to assist in the implementation of rational nutritional programs. Put shortly, the effort of this chapter is to suggest that the debate was distorted by polemical factors, psychological and economic considerations and that international policy on nutrition should rest on a firmer foundation.

Chapter 3 examines the scope and content of the Code, providing a detailed scrutiny of the articles with some

commentary.

Chapter 4 sets out a number of recent developments and trends including reference to legislation or administrative policies adopted in countries as different as Brazil, Denmark, Tunisia and Sri Lanka. The book having been produced in Sri Lanka contains a largish section on the series of regulations made under the Consumer Protection Act of 1979 of Sri Lanka. I hope it was not a blinding insight that led the authors to conclude that it is "easier to make laws and regulations than to enforce them".

The last chapter of the book contains "the unfinished agenda". This addresses attention to the malnutrition syndrome, the need to improve the quality of life of very large numbers of persons in the Third World and the need to find a place for the companies who make up the infant food industry:

"The industry's undoubted expertise should be tapped to reduce infant morbidity and mortality related to inappropriate feeding practices. Such collaboration should be an important agenda item for future action and would help end the antagonistic attitudes which are still far too prevalent on both sides of the debate".

The book annexes as appendix A the International Code. There is a useful compilation in appendix B of factors responsible for the decline in breast-feeding in a study conducted in Guatemala. There is a good index, detailed footnotes and a handy collection in those footnotes of much up-to-date material in this burgeoning literature.

Even readers who will disagree with some of the points made in this book will do well to reflect upon its major themes.

They are three. First, there are major challenges to humanity in respect of malnutrition and the provision of rudimentary health care and attention to millions of people. The use of vaccines alone could prevent an estimated 3 million deaths a year from immunisable diseases. According to the authors, the breastmilk substitutes controversy must be seen in a wider context of human disease, malnutrition and poor health services and practices. It is not to be seen as a "one-off" case of a ruthless multinational enterprise exploiting Third World countries but as a species of a larger genus of problems.

Secondly, although national policies are needed to tackle home manifestations of difficulties that arise from inappropriate commercial activities in the health care area, the size and nature of the task of human malnutrition and poor health is such that international collaboration is needed. The breastmilk substitutes controversy mobilised a number of international agencies. To some extent it demonstrates what can be done by international activity and example.

Thirdly, it is important for scientists constantly to remind politicians and polemicists of the need to base legislative and administrative action upon sound data not comforting prejudice. It is this third thesis that is likely to be most controversial. Doubtless some readers will see parts of this book as an apologia for the infant formula industry. On the other hand, it is important to remind ourselves of the danger of diverting well motivated endeavours to superficial activity, readily organised because it can focus upon a common enemy.

Nothing in this book has led me to change my opinion about the timeliness and importance of the world-wide reaction to

limiting the promotion of breastmilk substitute penetration of the developing countries. However, what the book does usefully offer is a context for likely future attention to similar problems. In this context the need for rigour and sound data as a basis for national and international policy is something that is difficult to dispute.

The Action Guide is an illustration of what can be done when three international agencies work together. The Commonwealth Secretariat, UNICEF New York and the World Health Organisation have published the Guide. It is presented in an attractive format: spiral binder organised with 16 sections ranging from an identification of the problem, through the provision of model legislation and suggestions on methods of creating awareness of the Code and of promoting multi-disciplinary approaches to socio-medico-legal issues.

The publication is offered "in order to assist national authorities review these issues". It arises out of the workshop organised by the three agencies in Harare, Zimbabwe, in 1983 previously referred to.

From a lawyer's point of view the most interesting section is the model Infant Food (Marketing and Control) Act prepared by lawyers working with the Commonwealth Secretariat in London. It follows the mode and style of legislative drafting typical of countries of the common law tradition. It will be interesting to see the extent to which developing and other countries of the Commonwealth of Nations pick up and move to the implementation of this draft bill. The clear and logical presentation of the options, legislative and administrative, for tackling the breast milk substitutes problem will doubtless make

this "Action Guide" specially useful in English-speaking Commonwealth countries. But it will doubtless have attention in other countries as well.

It might be hoped that readers of the Action Guide will also keep in mind the points made in "Judgement Reserved". To some extent, and as a reaction to the political and public outcry, the infant formula industry has moved to put its own house in order. It will be a misfortune if the successes achieved in the breastmilk substitutes controversy are seen as the end of the debate. They should be seen as the beginning of a wider international effort to tackle the endemic problems of health and nutrition. In this regard codes and laws have a limited role to play. But they do have a function. These two publications illustrate the limits and potentialities of that function.

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