

Manipulation by Association Is the Private Sector Undermining Nutrition?

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Much of India's nutrition agenda is being driven by the private sector through public-private partnerships and so-called multi-stakeholder dialogues. The new strategies of transnational corporations fall under the category of manipulation by association, where they establish their role and legitimacy by associating themselves with key institutions and people. A prime example of this is the influential 2013 series on maternal and child nutrition published by the *Lancet*. This comment analyses the issue and proposes some solutions.

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The neo-liberal thinking and policies of the 1980s nudged aside demands for a more stringent regulatory approach and accountability, paving the way for corporate social responsibility (CSR), self-regulation, and “voluntary” codes. Popular CSR practices, including public-private partnerships (PPPs) and “stakeholder dialogues”, were designed to offset calls for accountability (Utting and Clapp 2008). Of particular concern are the food and nutrition industry's attempts to become a legitimate partner in policy development. To achieve this, corporations have used several strategies, both at the political and academic levels, which include silencing critics and civil society, co-opting policymakers, lobbying, distributing gifts, and being nominated to government panels or advisory boards and committees (Wiist 2010).

One such strategy is manipulation by association, a relatively new one. This allows controlling, weakening, or delaying the enactment or implementation of regulations proposed by the government. The slow progress on the International Code of Marketing of Breastmilk Substitutes (the Code) is an example. So far only 37 countries have enacted legislation that fully adheres to it (WHO Executive Board 2013b). India took 11 years to enact the Infant Milk Substitutes

Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (IMS Act) and more than a decade to strengthen it.¹ Attempts were made to repeal it in 2005, but a public campaign saved it (Rajalakshmi 2005). The IMS Act prohibits advertising and promoting foods to be consumed by children under the age of two. It also bans giving gifts, and sponsoring health workers or their associations.

Manipulation by Association

Historically, examples of manipulation by assistance have been documented more often, manipulation by association is a relatively new phenomenon.

(1) *Lancet* Series Authors are Members of a Food Company Committee: Two of the lead authors of the new *Lancet* series on “Maternal and Child Nutrition”, published in June 2013,² declared a conflict of interest as members of the board of the Nestlé Creating Shared Value Advisory Committee (Black et al 2013a, b). The *Lancet*'s rules on conflict of interest refer to both financial and personal conflicts of interest. However, it is not clear what applied in this case. Was there any effort to eliminate or manage conflicts of interest? We believe these authors do subscribe to the food company's viewpoint if they chose to sit on a committee created by it. Nestlé is the world's largest food company, and it violates national laws and the Code on a routine basis (Save the Children 2013; Kean and Allain 2010). Given that policymakers often rely on the *Lancet*, it behoves the journal to prevent any conflict of interest. Nestlé has admitted paying the committee members an annual fee of CHF 25,000,

and this raises questions about the effectiveness of the *Lancet's* conflict of interest policy (Nagarajan 2014).

The authors, however, do not believe this to be a conflict of interest, going by their response in the *Lancet*.

...We do not consider it a conflict per se, but rather a much needed contribution of independent scientists to assist a corporation to fulfil its stated commitment to address local and global issues in nutrition, water, rural development, and environmental protection. Given that the Series provided evidence for the substantial benefits of exclusive and continued breastfeeding, made a recommendation for its promotion and support as one of the key interventions, and referred to the need for complementary foods, never breast milk substitutes, it is unclear where these authors see a conflict of interest... (Black et al 2013b).

The fourth paper in the series (Gillespie et al 2013) suggests that the private sector has a critical role to play in nutrition, and calls on it to generate “evidence about the positive and negative effects of private sector and market-led approaches to nutrition”. It further suggests that new forms of PPPs be formed. Can the private sector generate truly independent evidence about its own negative effects? Once this was raised in the public and academic domains (Gupta et al 2013), the authors responded that their “intention was to say that clear evidence is needed, not that this evidence should be generated by the private sector” (Black et al 2013b).

(2) Global Alliance for Improved Nutrition Is Adviser to *Lancet*: The chief executive officer (CEO) of the Global Alliance for Improved Nutrition (GAIN) acts as an adviser to the *Lancet* series. GAIN is a significant player that lobbies governments and the United Nations (UN) to open up markets for its corporate partners. It used to call itself a PPP, but now claims to be a non-governmental organisation (NGO). In January 2013, the World Health Organisation (WHO) refused it accreditation as an NGO, wanting answers about “the nature and extent of the Alliance’s links with the global food industry, and the position of the Alliance with regard to its support and advocacy of WHO’s nutrition policies, including infant feeding and marketing

of complementary foods” (WHO Executive Board 2013). To help becoming accredited, GAIN closed down its business alliance. In reality, it was simply “folded into” the Scaling Up Nutrition Business Network (SBN), which was relaunched with 40 global companies at the Davos World Economic Forum in January 2014. GAIN has since been accredited by the WHO. GAIN had tried to acquire control of India’s infant and child nutrition agenda and its coordination, but failed because of strong public protest (Rajalakshmi 2008).

(3) Scaling Up Nutrition Initiative Is with the UN and *Lancet*: The Scaling Up Nutrition (SUN) initiative, which calls itself a movement led by various countries, is actually promoted by the UN, especially the WHO and the UN Children’s Fund (UNICEF), though it has not been approved by the member states.³ The SUN programme is presented as a viable alternative to a fragmented global nutrition system (Gillespie 2013). Yet, the SUN has the food industry and GAIN on its lead body and promotes the creation of multi-stakeholder platforms at the national level with a “business network” as its integral part. Its strategy provides equal weight to five partner networks – governments, donors, the UN, civil society, and businesses – and it expects nations to follow its principles. If the private sector becomes a key driver of nutrition policy through GAIN and the SUN, traditional food habits will probably be replaced by processed foods. Since both GAIN and the SUN encourage PPPs and multi-stakeholder platforms, it is hard to know if there was a real transformation in GAIN before it was recognised as an NGO by the WHO. The decision seems to indicate that the WHO’s safeguards against conflicts of interest are not yet in place. This was even acknowledged by the WHO’s director general in January 2014 (Baby Milk Action 2014).

(4) Front Organisations of Food Industry Sponsor Nutrition Action: Food corporations are increasingly setting up front organisations to reach out to health workers and policymakers. The

Nestlé Nutrition Institute (NNI), a Nestlé front organisation, has been supporting and hosting meetings of doctors in India and other parts of the world. It is normal practice to invite key pediatricians to deliver lectures and provide local doctors with five-star hospitality to listen to them. The central government has intervened several times in this activity, which is forbidden under Section 9 of the IMS Act (Ghosh 2011; ISSOP 2014), and the Indian Academy of Pediatrics has resisted such events (Brady and Srouf 2014). In addition, former and current heads of premier government research and policy-advising organisations such as the National Institute of Nutrition (NIN), Indian Council of Agricultural Research (ICAR), and Central Food Technology Research Institute (CFTRI) are members of the Board of Trustees of the Indian chapter of the International Life Sciences Institute (ILSI), a creation of food and pharmaceutical companies (ILSI India 2013).

(5) Nestlé Nutrition Institute Flaunts Former Chief Justice of India’s Opinion: The NNI’s activities continue to violate the IMS Act despite the central government’s clear interpretation of its scope in letters to state governments.⁴ Nestlé sought the opinion of a former chief justice of the Supreme Court on whether the NNI violates the IMS Act when it sponsors doctors’ meetings, and so on.⁵ His opinion was in favour of the NNI, and Nestlé flaunts it to associate itself with hospitals, doctors, and government officials. Incidentally, it reveals that NNI is funded by Nestlé and that it pays for speakers’ travel and working lunches at its seminars. Section 9 of the IMS Act expressly says that no person “shall offer or give, directly or

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indirectly, any financial inducements or gifts to a health worker” and is very wide in its application.

(6) Former Bureaucrat Calls for Weakening Act: An adviser to the Britannia Foundation expressed a personal view in the *BMJ* that the *IMS* Act was a barrier to market-based solutions to malnutrition. She was earlier a senior officer in the same ministry that enacted the law, and this could influence policymakers to heed her call. It is not rocket science to foresee whom this will benefit. The author did not declare her conflict of interest, and when challenged, stated it, but argued that it did not matter (Rao 2012).

(7) Nestlé in Partnership with Universities in India: In 2010, Nestlé signed memoranda of understanding (MOUs) with the Punjab Agricultural University, Ludhiana; the National Dairy Research Institute, Karnal, Haryana; the University of Mysore, Mysore; and the G B Pant University for Agriculture and Technology, Pantnagar, Uttarakhand. Accordingly, Nestlé staff and the faculty of these universities run nutrition education programmes for schoolgirls. The then Minister of State for Rural Development Agatha Sangma and Nestlé India Chairman Helio Waszyk launched the joint initiative in April 2009 (Nagarajan 2011). Such associations with ministers provide Nestlé with much-needed positive publicity. When asked about the MOU through a right to information (RTI) application, the Punjab Agriculture University referred it to Nestlé, which responded, “The contents of the programme are of commercial and confidential nature and the disclosure of which may harm our competitive position.” If there are competitive interests involved, was Nestlé using public-funded institutions to promote its brand?

(8) Association with Celebrities to Promote Sugary Soft Drinks: This is a somewhat different but critical issue. The increased consumption of ultra-processed food promotes obesity and non-communicable diseases (NCDs) (Moodie et al 2013). Transnational corporations

pitch processed foods against fresh, perishable and non-processed (or minimally processed) foods. A meta-analysis indicates a clear and consistent association between soft drink consumption and increased energy intake. It was found to displace other nutrient sources, and linked to several key health conditions such as diabetes (Vartanian et al 2007). It is no secret that Indian celebrities influence people to consume high-sugar soft drinks. We believe such associations must be regulated.

Analysis and Way Forward

Child malnutrition is of two types – under-nutrition and over-nutrition. While under-nutrition is linked to inappropriate feeding of infants, over-nutrition is linked to unhealthy food consumption, and both are market-led problems that contribute to an increased burden of NCDs. The history of food corporations suggests they leave no stone unturned to increase profits. They are interested in self-regulation and PPPs as the best solution, yet these have not been shown to be safe or effective (Moodie et al 2013). In spite of this, the *Lancet* has made a strong pitch for the private sector to be a part of the solution to malnutrition. Transnational food corporations use the same tactics the tobacco lobby used to fight public regulation. Why should they have any role in developing nutrition or health policies?

What is common to the associations of the food industry with celebrities, scientists, judges, academics, and several significant others who work in public interest is conflicts of interest. Global nutrition governance is fragmented and India is no exception. Governments do rely on external advice, and this often becomes a window of opportunity for the food industry, particularly in developing countries. These associations lead to a business and governance nexus, which results in policies that may not match the public interest.

Many well-intentioned and well-educated people are not aware of the motivation behind the food industry’s public interest and educational activities. Moodie et al (2013) show that the

mere availability of alternative modes of nutrition can have deleterious effects on the health of any nation. When the going was good, the food industry indulged in aggressive market practices. Now that public pressure is forcing governments to enact tougher laws, the industry has changed its strategy – it is boarding the ship to wreck it from within. One has to only observe the manner in which food industry-sponsored nutritional activities are mushrooming.

In India, the Food Safety and Standards Act bans “misleading advertisements” and those using “health claims”. Yet, such advertisements are seen daily on television. Who is monitoring these promotions? There has to be public regulation to prevent unhealthy commodities from causing harm. Policymakers must understand that corporate help for our educational institutions, or philanthropy in promoting a healthy diet, are actually Trojan horses used to infiltrate genuine movements for a healthy way of living. They must bring in legislation to prevent this and not be scared by the food industry’s routine job-loss argument.

(1) Legislation to Prevent Conflicts of Interest: Though it is important to engage with the private sector to make it follow regulations, our experience is that corporations fight this tooth and nail. Thus, partnerships with the private sector amount to a direct conflict of interest. If the private sector is seen as a legitimate stakeholder without any conflict of interest, it would be hard to control its role in “partnerships”. India should have a law to eliminate and manage conflicts of interest.

A Rajya Sabha member did propose a private member’s bill, but that did not come through. This was the first attempt to make the non-disclosure of a conflict of interest a punishable offence. It was to cover the judiciary, the executive, and the legislature. But the bill lapsed when the session ended (Raman 2012). The present government has to show the courage and conviction to propose such a bill in Parliament. The UN Convention on Corruption supports such action.⁶ The WHO’s World Health Assembly has

been repeatedly calling for the application of clear conflict of interest rules so that commercial entities are not allowed undue influence over policy-making. Further, the Supreme Court has observed that while scientific panels can consult industries, their members must be independent and free of any conflict of interest.⁷

(2) End Celebrity Promotions of Soft Drinks, and Have Warning Labels: It is well known that sugary soft drinks make their way to people mostly through intense marketing campaigns led by celebrities. If there are known health risks, should we not regulate such promotions or end them? A policy change has to be made to protect public health (DeBoer et al 2013). More voices are now being added to the demand that sugary drinks carry warning labels, especially in the us and Latin America (Sacramento Bee 2014).

(3) Academic Journals Must Lead by Example: Academic journals should do some homework to manage conflicts of interest before making public research or analysis that has a potentially huge public health impact. When articles in the *Lancet* made way for a change in the vaccine policy of the WHO, both bodies declared a conflict of interest (Armah et al 2010). Now, the nutrition recommendations of the *Lancet* are being questioned because of their authors' conflicts of interest. Is declaration of conflict of interest enough? The World Health Assembly is now calling for clear conflict of interest rules (2012). In the interest of translating evidence into policy and maintaining the credibility of science, we call on academic journals and the *Lancet* to revisit their conflict of interest policies and ensure that they are followed. The authors of a series of papers that has important implications for public health should surely be above suspicion.

(4) Scaling Up Nutrition Must Tackle Conflicts of Interest: To conclude, conflicts of interest should be dealt with more effectively through public regulation and its enforcement. A law to prevent

conflict of interest can be a sound mechanism towards the goal of good health and nutrition in India. The academic world should lead by example. At the same time, obvious shortcomings should be dealt with quickly, and regulations must protect the public from advertisements and promotions of junk food.

NOTES

- 1 See <http://wcd.nic.in/infantmilkpacti.pdf>; and <http://wcd.nic.in/IMSAmendact2003.pdf>
- 2 In 2013, the *Lancet* published "Maternal and Child Nutrition", a series of five papers. It examined the consequences in low-income and middle-income countries that face the double burden of malnutrition – continued stunting of growth and deficiencies of essential nutrients along with the emerging issue of obesity. The papers also assessed national progress in nutrition programmes. See <http://www.thelancet.com/series/maternal-and-child-nutrition>, for more details.
- 3 See <http://scalingupnutrition.org/wp-content/uploads/2012/10/Sun-Movement-Strategy-Eng.pdf>
- 4 See http://www.bpni.org/IMS-ACT/Joint_MOH_WCD_Ltr_IMS_Act.pdf
- 5 Nestlé (India) sought an opinion from a former Chief Justice of India on whether it was entitled to conduct scientific activities for the dissemination of nutritional information in view of Section 9 of the IMS Act. The document was circulated by Nestlé to pediatricians in India and is at <http://bpni.org/IMS-ACT/Opinion-of-Former-Chief-Justice-of-India-about-NNI.pdf>
- 6 See https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/o8-50026_E.pdf
- 7 See <http://courtnic.nic.in/supremecourt/temp/68120043822011p.txt>

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