

ANALYSIS OF FOOD LAWS IN INDIA WITH REFERENCE TO FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

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ABSTRACT

"Right to healthy food" is an fundamental concept included in Indian Constitution for ensuring a better quality of life for its citizens, and it can be effectively regulated by having a proper legal framework of food laws in India. The research paper focuses on the analysis of current trends in the food standards and its regulations by studying the improvements that are necessary in food related legislations. Furthermore the paper analyses the origin and current situation of the Food Standards and Safety Authority of India (FSSAI). The other insights of this paper includes the study of overlapping jurisdiction of food laws between Union and other states which creates a controversy in deciding the legislation authority of food laws. Food packing is an unaddressed factor that deteriorate the quality of food, hence the paper also legally analyses the issues relating to such issue. Finally the penal liabilities for food related offences are analyses and various improvements are suggested.

Key Words: FSSAI, Food Adulteration, Consumer, Food Laws, Right to healthy food, Penalties.

INTRODUCTION

"Food"² is the basic need of each and every living being and it cannot be separated in environment because the organisms in the ecosystem are based on the food cycle. As food

provides nutrition and energy to body, many times there is a problem of malnutrition in many under-developed countries. If food is taken with proper care and concern, hunger deaths around the world can be avoided. India is the second largest exporter of milk and milk based products in the world, but at the same time, it is the first to have calcium deficiency among its younger population. Many recent reports including the Hunger Index portrays there is the need for proper codification of laws in the field of food and nutrition. When the world is talking about availability of food, the standards of the food products remain a great question. Gone are the days where we used carcinogenic-free paper products for packing, with the advent of plastics.

More than health and nutrition, taste and appearance of the food are prioritized by the people, so there arises a conflict between quality food and tasty food. The Food Standards and Safety Authority of India(FSSAI)³, which is the scientific organization to regulate the food products and its consumption purely based on scientific standards to ensure there is a proper enforcement of food standards and safety in the country. India previously had many specific food laws but all of them are talked under the Food safety and standards Act of 2006. The legal view on protecting public health and regulation of business in food industry must be well taken care so as to involve in ensuring nourishing foods. Many local laws of the states sometimes are in conflict with this nationalized law, hence there ,must be a proper codification of food laws in India.

² Merriam Webster, Definition of Food <https://www.merriamwebster.com/dictionary/food>

³ FSSAI is a statutory body under the administration of the Ministry of Health and Family Welfare, Government of India. It majorly regulates the manufacture, storage, distribution, sale, import of food articles, while also establishing standards to ensure food safety.

FOOD STANDARDS IN INDIA

The food we eat must be free from contaminations and should ensure proper assurance of nutrition level, so as to have healthy lifestyle. Food standards in India are very strict when comparing to the other countries. Indian food laws always follows a pro-active measure to avoid the causes and spread diseases. There are two kinds of registrations in India for following the food standards. One is the compulsory regulation and the second is the voluntary regulation.⁴

The compulsory regulation includes certain laws, the food manufacturers or the industries should make a compulsory regulation by way of registration. For example, the prevention of food adulteration Act-1954, essential commodities Act and milk and milk products Act-1992, under such regulations, there must be a compulsory and strict regulation that must be followed. The voluntary registration means the establishments have to come forward voluntarily and must produce a copy out of them and they have to ensure the phenomenal improvement of various policies regarding to food regulation. Some of the voluntary regulations in India include Indian Standards Institution (ISI), Food Safety And Standards Authority of India and etc.⁵

NEED OF FOOD LAWS IN INDIA

India has around 145 crore population where each and every day tones of food products are manufactures and consumed by people. Starting from the small scale industry to the

⁴ B. Srilakshmi, Food Science (2018)

⁵ Food Safety & Standards Authority Of India, Training Manual For Food Safety Regulators, Food Safety Regulations & Food Safety Management. 2 (2010).

large multi-national manufacturing companies, there need a proper codification of laws to regulate the food business. The need of food laws not only focuses on just quality of food, but also various aspects like labeling of foods, packing materials, additives and preservatives added in it, various contamination that process, and overall they ensure the proper hygiene and standard.⁶

"Trust of people" is the huge significant task especially in food industry, they involve in various aspects so as to involve in the proper codification and involvement of earning the trusted food products, and creating a hazard free mindset to consume foods. India has a diversified food culture, especially in current society, where people like to eat mostly western foods comparing to our native food products, the food laws is essential to ensure proper import procedures of food production from various countries. The import and export laws relating to the food products not only ensure food regulation but also protect our Indian food production and economy.

FOOD ADULTERATION: CAUSES AND CONSEQUENCES

Food adulteration in India is backed by multiple reasons. Some of them are very dangerous and some of them are very dangerous and few of them can be fatal if not solved at the earliest. The profit motive of the food producing companies are the ideology behind the food adulteration. In all the restaurants, irrespective of its standards, the business motive is implemented and the expansion of new branches are focused rather than the food safety of

⁶ Harsh Mander, Ending Indifference: A Law to Exile Hunger, 11 Journal of the National Human Rights Commission. 39, 52 (2012).

the people.⁷ Gone are the days where equality foods are manufactured rather they are involved in the sumptuous foods and proper codification of food related laws.⁸

Lack of strict regulation is another criteria that has to be contracted by the proper because each and every day comparing to the other penal laws, food laws are rarely monitored and regulated by the law implementers.⁹ For example, a street vendor who sells a cottage industry produced feed in street has eventually low standards, but owing to the economic consideration of such laborer and workers there are rarely action taken.¹⁰

FSSAI

The Food Standards and Safety Authority of India(FSSAI) is the apex body in India formed under the food safety and standards Act of 2006. Its main motto is to regulate the food and its allied products and consumption in the country, the ultimate goal of it i to ensure hygiene and quality food products that are suitable for human consumption.

The Functions of FSSAI includes the following measures.

1. Setting up Standards for food products: It formulates standards and regulations for food products and ensures these align with international food standards (like Codex Alimentarius).

⁷ Peter Uvin, The International Organization Of Hunger (1994).

⁸ Jessica Vapnek, Perspectives and guidelines on food legislation with a new food law (2005)

⁹ Pradeep Chaturvedi, Food Security in South Asia (2002).

¹⁰ Kaumudhi Challa, Genetically Modified Crops: Challenges of Food Security and Safety , Cochin University Law Review (2011).

2. Licensing and Registration of food business: All food business operators (FBOs) must obtain FSSAI licenses or registration based on business size and scope.
3. Food Safety Enforcement in Society: It Conducts inspections, audits, and surveillance to ensure compliance with food safety norms.¹¹
4. Scientific Testing and Analysis of food: It maintains a network of food testing labs across India for analyzing food samples.
5. Promoting basic awareness among people: It educates the public on safe food practices through campaigns like Eat Right India.
6. Handling Food Adulteration Cases: It identifies and takes legal action against adulterated or substandard food products.¹²
7. Recalls and Bans: It can issue product recalls or bans if a food item poses a risk to public health.

FOOD SAFETY AND STANDARDS ACT 2006

The food safety and standards Act of 2006 is the comprehensive legislation for the regulation of food and its related laws in India and also its multi-dimensional view of food process and produces ensures a healthy food and prevent food adulteration to a maximum extent. The safe and wholesome food is the main criteria for implementation of proper

¹¹ N.S.Parmar, "Health Education and Community Pharmacy", (2017)

¹² R.D. Agarwal, The Prevention of Food Adulteration Act 34 (1977)

codification and practicality of food production. One of the prominent objective of this Act is to constitute a exclusive body for food regulation in India (i.e.) The Food Standards and Safety Authority of India(FSSAI). The notable objective of this Act includes scientific based food standards in India.

Apart from the licensing and registration of food business, it includes penalties and punishments for the non-compliance by promoting high degree of penalties and punishments for the safety and security of nutritious foods in India. The statute also mandates the food research procedure, risk assessment and food safety and audits in a continuous period.¹³

OVERLAPPING JURISDICTION OF FOOD LAWS BETWEEN STATES

In many States of India, there are local laws governed by respective states regarding the regulation of food business. In such situation there arises numerous overlapping jurisdictions between the state laws with the laws of Union government. In India, the regulation of food safety is ultimately governed by the Food Safety and Standards Act, 2006, regulated by the Food Safety and Standards Authority of India (FSSAI) at the Union level. However, food and public health comes under the Concurrent List of the Indian Constitution, allowing both the central and state governments have power to legislate on these subject. This dual authority sometimes leads to overlapping jurisdiction between union and state food regulatory bodies. States have their own food safety departments,

¹³ Radomir Lasztity, et.al., History of Food Quality Standards, Encyclopedia of Life Support Systems (EOLSS), (2004)

municipal authorities, and health agencies, which may inspect or regulate the same food businesses that are registered under FSSAI's purview.

In addition, many Indian states still function under older food-related laws or municipal regulations that may conflict with the uniform standards set by the FSSAI. Furthermore, in the matters of inter-state trade, few disputes can arise when a food product is manufactured in one state and approved under FSSAI standards faces statutory barriers in another state. These overlaps outcome in delays in providing approvals to food business, inconsistent enforcement of laws, increased compliance burdens on food manufacturers, and many legal uncertainty, affecting the activeness and reliability of Indian food safety system.

LEGAL VIEW ON FOOD PACKING MATERIAL

Legality of food packaging materials in India are regulated to ensure they are safe, toxic-free, and do not contaminate or alter the standard of food. The Food Safety and Standards Authority of India (FSSAI) governs these aspects under the Food Safety and Standards (Packaging) Regulations, 2018. These regulations monitors that packaging materials must be of food-grade quality and should follow specifications laid down by the Bureau of Indian Standards (BIS). The law differentiates between direct contact and outer packaging, with very strict standards applied to packing materials that are directly contacted with food.¹⁴

¹⁴ Ravulapti Madhavi, Is The Food Safety Lurking In The Food Safety And Standards Act, 2006, 4 Supreme Court Journal. 17, 20 (2008).

Prohibited materials, such as low quality plastics and printed newspapers cannot be used for food packaging due to the risk of carcinogenic contamination. Packaging must also ensure protection from biological hazards like pests and insects during storage and transportation of raw materials. In addition, the labeling of packaged food must follow the Food Safety and Standards (Labelling and Display) Regulations, 2020, which ensures consumers to receive accurate and transparent information. When the food industry or business entity do not follow such packaging norms it can lead to penalties, product recalls, or punishments under the FSS Act, 2006. Thus, legal regulation and monitoring of food packaging is an vital part to ensure consumer safety and maintaining food quality in India.¹⁵

RIGHT TO HEALTHY FOOD : A CONSTITUTIONAL OBLIGATION

The right to healthy food is a basic and necessary component of the right to life under Article 21 of the Indian Constitution. While the Constitution does not explicitly mention the right to food, the Supreme Court of India has, through various landmark judgments have interpreted Article 21 to include the right to live with dignity, which includes safe, nutritious, and adequate food for all. The constitutional obligation of right to healthy food is also reinforced by Directive Principles of State Policy, especially in Article 47, which states that the State shall regard raising the level of nutrition and the standard of living of its

¹⁵ S. Ramaswamy & L. Surulivel, Food security in India (2017).

people as among its primary duties. This mandates a moral and legal responsibility to the state to ensure food security, regulate food safety, and prevent adulteration of foods.¹⁶

The implementation of food safety standards by agencies like the Food Safety and Standards Authority of India (FSSAI) originates from this constitutional mandate. In cases like the PUCL vs. Union of India¹⁷, the Supreme Court observed that the right to food is essential for the fulfillment of the right to life, directing the government to improve food distribution systems and nutrition schemes. The right to healthy and nutritious food is not only a social obligation but a constitutional obligation binding on both Union and State governments. It requires the creation and enforcement of policies that ensure all citizens must have access to safe, hygienic, and nutritious food that are free from adulteration and contamination as an inevitable part of their fundamental as well as human rights.¹⁸

PENAL LIABILITIES FOR FOOD ADULTERATION

Penal liabilities for food adulteration in India are very strict since the act of adulterating food causes a serious fatalities to public health and safety. The legal statutes governing such offenses is the Food Safety and Standards Act, 2006. Under this legislation, various penalties are prescribed depending on the nature and severity of the offense. For instance,

¹⁶ Saurabh Arora, "Food Regulations-What is the Current Scenario in India"(2015)

¹⁷ AIR1997 SC 568

¹⁸ Swarna S. Vepa et.al., Food Insecurity Atlas of Urban India (2002)

the sale of low-standard or misbranded food items can attract fines ranging from ₹3 lakh to ₹5 lakh. In cases where adulterated food causes harm, the punishments are more intense.¹⁹

If the consumption of such food results in non-grievous injury, the offender can face up to six months of imprisonment along with a fine of up to ₹1 lakh. For grievous injury, the punishment may extend to six years of imprisonment and a fine of up to ₹5 lakh. If the adulteration leads to fatal death, the law provides for life imprisonment and a fine not less than ₹10 lakh. The Indian Penal Code 1860 under Sections 272²⁰ and 273²¹ also criminalizes food adulteration and the sale of harmful food or drink with punishments including imprisonment up to six months and fines as such. These legal provisions project the seriousness with which food adulteration in India is treated and tell the need for strict enforcement to protect consumer health and uphold the right to safe and nutritious food.

¹⁹ Suman Gupta & Shridul Gupta, Right to Health- Law Government & Public Health, 1&2 Nyaya Deep. 56, 68 (2014).

²⁰ Section 272, Indian Penal Code, 1860 provides: Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Classification of the offence given under this section calls it a non cognizable, bailable, non-compoundable offence to which it says is to be tried by any Magistrate.

²¹ Section 273, Indian Penal Code 1860 provides: Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Section also covers explanation to the section by saying that offence under the section is non-cognizable, bail able, non-compoundable and triable by any Magistrate.

CHALLENGES FACED IN ENFORCING FOOD LAWS

1. Lack of scientific infrastructure in our country that includes Shortage of modern food testing laboratories and equipment in many states.
2. Insufficient Manpower that includes Inadequate number of trained food safety officers and inspectors to monitor large-scale operations.
3. Overlapping Jurisdiction between central and state authorities lead to confusion and regulatory delays.
4. Lack of Consumer Awareness. Many consumers are unaware of their rights and how to report unsafe food practices.
5. Corruption and Weak Enforcement, the inconsistent implementation of food laws due to corruption and lack of accountability.
6. Legal Delays includes prosecution in food adulteration cases that are often slow, with long drawn legal battles.
7. Non-Uniform Application of Laws that includes variations in enforcement across states cause disparities in food safety standards.
8. Resistance from Food Businesses, in many small and unorganized food businesses that resist compliance due to cost and complexity.
9. Outdated Local Laws, some municipalities still follow older regulations that conflict with FSSAI norms.
10. Challenges in Monitoring E-commerce Food Sales, difficulty in regulating food sold online due to lack of physical oversight.

CONCLUSION

There are certain measures of life that cannot be compromised, one such notable subject is the "healthy food". If this has to be ensured, it cannot be imagined without the legal framework of effective food laws in India. To strengthen the food safety framework in India, numerous key suggestions can be considered for improvising food laws and their implementation. At first there is a need for greater harmonization between Union and state regulations to eliminate jurisdictional overlaps and ensure uniform enforcement of the Food Safety and Standards Act, 2006. In Upgrading scientific infrastructural frameworks such as food testing laboratories and rapid inspection units particularly in village areas are essential for timely and accurate monitoring.

The appointment of expertised and trained food safety officers should be prioritized to enhance regulatory capacity. Moreover, strict punishments and faster legal proceedings should be ensured to deter adulteration and non-compliance. Enhancing public awareness through education campaigns about food safety rights and complaint mechanisms is also critical. In addition, laws must address the emerging challenges including the regulation of online food delivery platforms. Finally by encouraging self-monitoring and third-party audits among food businesses can promote compliance and accountability thereby reinforcing holistical growth of food laws in India.

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