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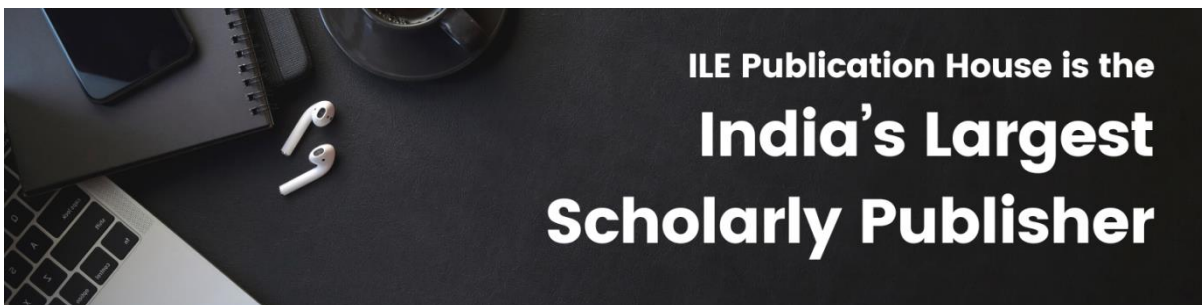
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FOOD LAWS: THE HURDLE RACE

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Abstract

This article talks about the importance of food and why we need Food Laws. Food is very essential for survival and unlike air or water, food comes in various categories. The food supply chain is continuously growing and becoming complex. A situation that cannot do without laws and regulations. Food is life and though not mentioned explicitly it is considered as a right under the right to life. This article introduces various food laws that were enforced since independence and the Food Safety and standards act of 2006. The functions of FSSAI are also discussed while some light is shown on various hurdles that came in the way of enforcement of food regulations. This article discusses that every stage of the food supply chain is vulnerable and how food gets contaminated by various contaminants. Foodborne illness creates a huge burden on the country's finance and thus need to be carefully regulated. Food laws not only regulate food item production but also their distribution and packaging.

Keywords: (FSSAI, Food Laws, Food-borne illness, India, Food justice)

I. INTRODUCTION

Food is the basic need of life. Other than Air and Water. Many laws are already present trying to ensure quality air for everyone to breathe. There are various Environmental regulations looking after the issue of freshwater also. Off course we cannot say India has reached the ceiling in regards to ensuring unpolluted air for everyone or free drinking water to each and every citizen. The efforts to do so are visible to the naked eye. At least a majority of the population is aware. When it comes to food. The matter becomes a little complicated. Food does not exactly come under the purview of environmental laws. It has its own section. Not really famous. India do have food laws. A number of regulations have been introduced in India regarding food safety and other things like production, management, packaging, etc since independence. Although internationally there are food conventions, at the national level the topic is not that popular.

Food is not cheap. It is perishable. And is related to so many things. It is indirectly connected to the development and prosperity of a nation. Food is life. Humans cannot live without food. Food and health go hand in hand. Food is needed to fulfill the daily need for energy and to function. Food can become a health hazard too. There are a number of food-borne illnesses.

Food is available in a number of categories and classifications. Food has been a crucial part of human civilization. The steps of human growth revolved around food. Hunters, food gatherers, the food producers; Early humans are categorized as such. People strive to have a good education, to have good jobs, why? To have money, dignity, and respect. But all these fancy terms come after food. People work to feed themselves.

So how can such a major part of our life, the meaning of our existence not have laws? India is a fast-growing country that has not completed a century of its independence. We



are developing at a remarkable rate. Making laws to regulate every possible thing. Food is one of them. The food industry is one of the largest industries in India and involves many levels and a large number of personnel. The food chain is increasingly becoming longer, complex, and globalized.⁷ The food needs to be produced, to be stored, to be circulated, to be processed, and also the waste disposal. Thus, it needs comprehensive laws.

II. WHY WE NEED FOOD LAWS.

Food is a perishable item. It is very prone to create health hazards. Food laws are necessary to ensure food safety and ensure food justice. Foodborne diseases are not something that can be laughed about. According to the 2015 World Health Organisation report, about 600 million people catch foodborne diseases and about 420,000 deaths can occur in a year. This is an estimate of more than seven years ago. According to the estimate of the World Bank Report of the burden caused by foodborne illness in India for the year 2018, India lost whopping 15 billion dollars annually. Arun Singhal, CEO of FSSAI writes in his article published in 2021, that by 2030, foodborne diseases are expected to rise to 150-177 million annually. Without any concrete steps taken, it is very hazardous for the country. And how can, without any system or regulation progress can be achieved? Hence food laws are very necessary.

Back in history, there was a time when humans produced or gathered, processed, and eat their food all on their own. Or barter between a small community of a few hundred. Now that is not the case. A simple salted potato chips packet that is available at every grocery store involves many steps to reach the hands of a consumer and goes through a chain of supply. Each link of the chain is vulnerable and holds equal potential to affect the quality of food produced. Food can be contaminated at any step.

One single person named Mary Fellon popularly known as Typhoid Mary was single-handedly responsible for spreading typhoid disease to more than forty households. Most of the norovirus outbreaks are traced to service employees. A beverage can be heavenly in taste but if the water used is contaminated, no one can tell. The quality of animal products depends on the feed they ate. The slaughtering and processing steps also need to be regulated as there is a high risk of contamination. In short, there is no debate that why we need food laws they are a necessity.

Food safety can be endangered in various ways. Chemical contamination can happen in the fields. From pesticides and fertilizers used in farming. Or the cleaning aids used to clean the produce afterwards. Taking chemically contaminated food can lead to many diseases varying from cancer to allergies and, may even lead to death. Though most of the chemicals used in fields should be able to be washed off. Regulations are needed to monitor which chemical substances should come in contact with food.

Food can be contaminated with pathogens resulting in foodborne infections and diseases. These pathogens can occur naturally but storage and preparation methods play an important role in their germination. Without proper care, the food we ingest has a danger of being contaminated with such pathogens. Other than chemicals and pathogens, one other biological substance, if present in food has the potential to harm the consumer. They are allergens. Food allergy can cause varied degrees of harm. From hives, and gastric problems to difficulty in breathing. Thus, the supply chain needs to be regulated so that the presence of allergens can be prevented or marked so that a consumer gets to know what he is consuming. Food contaminated with foreign objects such as glass, stone, dirt, pests, hair etc. is also not fit for consumption.

Food laws are necessary to check adulteration. In greed to earn more profit the dealers adulterate food materials. Milk is added

⁷Arun Singhal, "FSSAI mounts offensive against Food-borne illness" NUFFOODS SPECTRUM, 2nd August 2021, https://fssai.gov.in/upload/uploadfiles/files/Food_Testing_Ecosystem_Nuffoods_02_08_2021.pdf (Last Accessed on 16th June 2023 – 15.02 PM) pg-42

to water, pulses with stones, chalk powder in sugar, artificial colours in spices, medicine, and sweeteners in fruits, and the list goes on. Penal laws and special food laws to regulate this matter are a must-have thing. Not only adulteration but deliberate biological, chemical, or physical contamination also need a check and balance. Food laws and regulations are a necessity for food safety and security.

A. FOOD JUSTICE AND OUR CONSTITUTION.

Food Justice is a recent term that can be broadly defined as a system that is dedicated in ensuring healthy food for all without inequalities. Basically, it is a movement that calls for the right to healthy food to be included in the fundamental rights.

In the Directive Principles of the State Policy, the constitution of India impose a duty to the state to strive to raise the living standard of the nutrition level and improve public health. The right to life under Article 21 includes a life of dignity, a right to fresh air, and an unpolluted environment. Through various judgement right to food is also included under the Right to life. In the landmark judgement, *Kesavananda Bharati vs. State of Kerala*⁸ Justice Mathew observed that “freedom from starvation is as important as the right to life”. Next in the case of *n Dena Nath vs. National Fertilizers Ltd.* right to food was considered as basic human right. Number of case laws establish similar facts; *n Olga Tellis & Ors. vs. Bombay Municipal Corporation & Ors* , ⁹*Shantistar Builders vs. Narayan Khimalal Totame*¹⁰, *P.G. Gupta vs. State of Gujarat*¹¹, and others. In *Kapila Hingorani vs State of Bihar* ¹²the court approved that t human beings have a right to food and that hunger is a violation of human rights.

B. WHAT IS COVERED UNDER THESE LAWS?

Food is a very broad term. It covers everything we intake. Cooked, uncooked, and raw. Packed, and unpacked, from fields, trees, factories, and laboratories. Grains, pulses, fruits, vegetables,

Oils, Spices, meats, eggs, honey, seafood, etc. Food laws cover not only the safety, security, production, packaging, and distribution of these products but also the feed and livestock practices, meat processing, use of pesticides and fertilizers, drugs and chemical use on food materials, time and temperature of food, sanitation, handling and hygiene, adulteration, tampering, production and distribution of genetically modified food items, import and export, and tracking and tracing for foodborne illness pathogens.

i.e., Food safety standards not only contribute to keeping the nation healthy but also contribute to a Country’s rule of law. They not only work toward the prevention of foodborne illness, food contamination, and adulteration but also benefit the transportation industry, packaging industry, storage facilities, and the service industry.

III. FOOD LAWS AND REGULATIONS.

The earliest law regulating food items is The Vegetable Oil Products (Control) Order, of 1947. This order regulated the production and distribution of all edible oils. Going chronologically next act is The Prevention of Food Adulteration Act, of 1954. This law defines and penalizes adulteration. It also imparts various responsibilities to the central government and state government. The act was amended in 1964, 1976, and 1986. The Food Products Order, of 1955, is also a food law whose objective is to manufacture fruit & vegetable products while maintaining sanitary and hygienic conditions in the premises and quality standards laid down in the Order. Then there is The Solvent Extracted Oil, De oiled Meal, and Edible Flour (Control) Order, of 1967. It regulates the quality of oil to ensure that the oils are refined and processed before reaching the consumption market. Another order relating to oil is The Edible Oils Packaging (Regulation) Order, of 1998. It regulates the registration of packers and other standards of packaging. There is the Milk and Milk Products Order, 1992 regulating the manufacturing, processing, and

⁸ (1973; 4 SCC 225)

⁹ (1985; 3 SCC 545)

¹⁰ (1990; 1 SCC 520),

¹¹ (1995; Supp 2 SCC 182)

¹² (2003; 6 SCC 1)

distribution of liquid milk. The Meat Food Products Order, of 1973 enforced strict quality control on the production and processing of meat food products under the Essential Commodities Act 1955. It aims at the maintenance of sanitary conditions in the slaughterhouses, ensuring proper antemortem examination, postmortem inspection of carcasses, in-process inspection, and final product checking.

In 2006, The Food Safety and Standards Act, 2006 was enacted. It consolidated all the laws relating to food and establish the Food Safety and Standards Authority of India for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale, and import, to ensure the availability of safe and wholesome food for human consumption and for all other matters connected with food. The previous acts and orders were repealed after the commencement of the FSS Act, 2006 by section 97 of this act. The act was amended two years later but the amendment was not a major one.

This act provides for the establishment of the Food Safety and Standards Authority of India, its composition, duty, and function. It provides general principles of food safety, adulterants, contaminants, pesticides, veterinary drug residues, antibiotic residues, microbiological counts, genetically modified foods, organic food, etc. It also regulates the packaging and labeling of foods, advertisements, and unfair trade practices.

It also has provisions for Import, responsibilities of the food business operators, etc.

Along with defining the offences and penalties, it also has provisions for food analyses and appellate tribunals, special courts, and prosecutors.

IV. FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA.

The Food Safety and Standards Authority of India was established on 5 September 2008 under the Food Safety and Standards Act, of 2006. It is a statutory body established under

the Ministry of Health & Family Welfare, Government of India. The current chairperson is IAS Shri Rajesh Bhushan while CEO is IAS Shri G. Kamala Vardhana Rao. FSSAI is located in 4 regions Northern, Eastern, Western, and Southern. It comprises a Chairperson and twenty-two members out of which one-third are to be women as per section 5 of the FSS Act. FSSAI is responsible for ensuring compliance of FSS Act, 2006 rules and regulations made thereunder by the FBO's. FSSAI has been created for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import to ensure the availability of safe and wholesome food for human consumption.¹³ Under the mandate of the FSS Act, 2006 FSSAI performs the function of framing of regulations to lay down the Standards and guidelines in relation to articles of food and specifying appropriate system of enforcing various standards thus notified. It lays down mechanisms and guidelines for accreditation of certification bodies engaged in the certification of food safety management systems for food businesses and procedures and guidelines for accreditation of laboratories and notification of the accredited laboratories. It is also responsible for providing scientific advice and technical support to Central Government and State Governments in the matters of framing the policy and rules in areas that have a direct or indirect bearing on food safety and nutrition. It has the task to collect and collate data regarding food consumption, incidence and prevalence of biological risk, contaminants in food, residues of various, contaminants in foods products, identification of emerging risks and introduction of rapid alert system. It is also responsible for creating an information network across the country so that the public, consumers, Panchayats etc receive rapid, reliable and objective information about food safety and issues of concern and for providing

¹³ FSSAI, About FSSAI <https://www.fssai.gov.in/cms/about-fssai.php#:~:text=FSSAI%20has%20been%20created%20for,wholesome%20ofood%20for%20human%20consumption.> (Last Accessed on 16th June 2023 – 15.02 PM)



training programmes for persons who are involved or intend to get involved in food businesses. It another responsibility is to contribute to the development of international technical standards for food, sanitary and phytosanitary standards and to promote general awareness about food safety and food standards.

V. ISSUES SURROUNDING FOOD LAWS AND REGULATIONS

The major problems that produce hurdles before food laws revolve around the matter of the enforceability of these laws, the large population and lack of enough storage and efficient distribution facilities, and the increasingly decreasing food quality.

Food regulation is present. Both legislature and executive are constantly working to ensure food safety. FSSAI has provided over 90 mobile food testing laboratories called Food Safety on Wheels (FSWs) to the States/ Union Territories (UTs)s to add to the food testing infrastructure in the country.¹⁴ The judiciary has always been active in ensuring food safety and security. But that doesn't seem to be enough. Despite having a legal framework, the country is still struggling in enforcing effective and efficient food safety and security. The way large population and increased complexity make it harder to regulate. People will follow the law only when they have at least a bare minimum satisfaction. Those who have nothing to eat won't care about whether the bite they are eating is not healthy. The lack of food creates demand. The demand gives a chance to the malpractitioners to indulge in adulteration, to not follow food safety measures and other food laws. India has countless street hawkers, restaurants, and Food Business Operators. Their regulation is not a simple or easy task.

The supply chain is growing at a fast pace. New challenges continue to emerge as more and more import and export of food takes

place. The climate is not with humans too. The changes in the environment are not something that humans can control. Unluckily these changes not only affect the lifetime of food but their production too. New pathogens, disease-causing bacteria, viruses, fungi, and microbes are emerging at an equally fast pace that there tests that diagnose the illness caused by them are not keeping up. Food waste disposal is another important area that is struggling. Food waste can be used to produce energy and fertilizers but we have definitely not achieved any progress in that sector by a significant margin.

India grows enough food to feed each and every mouth in the country. But the food grains go waste without reaching the needy or before they reach the needy due to lack of storage and proper distribution. This is not a problem that can be solved by laws and regulations. But this problem causes an extra hurdle before the enforceability of food laws.

VI. CONCLUSION

Food is very important for survival. This led to the complex food industry we have today. While healthy food brings life and sustains it, unhealthy food is very dangerous. Food safety and security should be ensured with responsibility. Food laws are very important as they work towards the regulation of food standards. They make sure what we are eating is safe and uncontaminated. FSSAI is continuously bringing new improvements to ensure food safety. India's large population, complex food supply chain, and changing eating habits provide obstacles before the food laws. Thus we need to get updated with the speed new changes appear. In the fast-paced life of today, packaged food and food business operators are at big. India needs to have a system better than it has now. With everything becoming digital, may be there we will get our solution.

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