

LAWFOYER INTERNATIONAL
JOURNAL OF DOCTRINAL LEGAL
RESEARCH
(ISSN: 2583-7753)

Volume 2 | Issue 2

2024

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LANDSCAPE OF FOOD SAFETY IN INDIA: NAVIGATING THE LEGAL CHALLENGES AND PERSPECTIVES

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I. ABSTRACT

Food safety is our fundamental right which has the utmost importance to our health. Throughout the world, many countries enact tough rules and regulations to protect their citizens from consuming unsafe foods. Countries like India, feed a large geographically dispersed population among which one-tenth of the population is under the poverty index. India ranks 111 out of 125 countries (2023) in the global hunger index and over 20% of the kids under the age of 5 are underweight and struggling with malnutrition². In this ridiculous situation, food safety is a vital matter of discussion which we often neglect.

For a long time, we have been facing many food safety irregularities in our country. From government-aided organizations to private organizations to street vendors we can see numerous instances of unhygienic, unsafe food practices. In 2024 a chain of gruesome instances comes to light which shows us the landscape of food safety in India.

The enactment of the Prevention of Food Adulteration Act 1954 underlines the need for food safety rules in India. In 2006 the government revised and consolidated food safety legislation and enacted the Food Safety and Standards Act 2006 which came into effect in 2011³. This act tries to implement rules and regulations for all issues regarding food safety in India.

This research endeavour strives to comprehensively study the legal provisions of the Food Safety and Standards Act of 2006 along with the recent and past instances regarding food safety matters.

¹ Surendranath Law College, University of Calcutta

² Byjus, <https://byjus.com/free-ias-prep/global-hunger-index/>, (last visited Jun. 26, 2024)

³ Byjus, <https://byjus.com/free-ias-prep/fssai-food-safety-and-standards-authority-of-india/>, (last visited Jun. 26, 2024)

II. KEYWORDS

Food Safety, Fundamental Right, Right to food, Article 21, adulterated food, Hygiene, FSSAI, the Food Safety and Standards Act 2006,

III. INTRODUCTION

Food is a necessity of every person from rich to poor, to middle class to upper class to everyone. Food safety is a critical aspect that affects the health of wellbeing up to millions of people in India. India with a population of more than 1.4 billion⁴, it is a complex challenge to ensure food safety in India. In recent times there have been growing instances of food safety in India like, a human finger in ice cream in Mumbai, a cockroach in IRCTC veg thali, a dead snake in dinner at Government Engineering College mess in Bihar, food adulteration in Hyderabad and many more instances which socked us in a row⁵. FSSAI has lodged 1411 prosecution cases against food businesses since April 2023⁶. Food is a fundamental right to life under Article 21 of the Indian constitution⁷. But the safety of foods is decreasing day by day not only the street foods but also in renounced restaurants.

There are several laws and regulations in place governing food safety but there are also gaps and inconsistencies that need to be addressed. The Food Safety and Standards Act 2006 was a significant step towards harmonizing food regulations in India but there are still challenges in enforcement and implementation at the ground level.

IV. RESEARCH OBJECTIVES

1. Discuss the recent instances and legal provisions related to food safety in India.

⁴ NDTV, <https://www.ndtv.com/india-news/indias-population-estimated-at-1-44-billion-24-in-0-14-age-bracket-un-report-5459766>, (last visited Jun. 26, 2024)

⁵ Livemint, <https://www.livemint.com/news/india/human-finger-ice-cream-cockroach-irctc-food-mid-day-meal-snake-centipede-rats-fssai-food-safety-in-india-vande-bharat-11718937689910.html>, (last visited Jun. 26, 2024)

⁶ Retail news, <https://retail.economicstimes.indiatimes.com/tag/food+safety>, (last visited Jun. 26, 2024)

⁷ Pressbooks, <https://ebooks.inflibnet.ac.in/hrdp04/chapter/right-to-food-in-indian-constitution-and-case-law/>, (last visited Jun. 26, 2024)

2. Examine the current regulatory framework and its effectiveness in the arena of food safety in India.

V. RESEARCH QUESTIONS

1. What are the recent food safety risks in India and how does the legal system of our country address these challenges?
2. What policy and legislative reforms are needed to create a more comprehensive and effective legislative control for food safety in India?

VI. RESEARCH HYPOTHESES

1. The current regulatory framework for food safety in India is ineffective in addressing the emerging food safety risks and challenges.
2. Inadequate enforcement and implementation of existing food safety laws and regulations is a significant barrier to ensuring food safety in India.
3. The lack of harmonization and consistency in food safety regulations across different states and jurisdictions in India undermines the overall effectiveness of the legal framework.

VII. RESEARCH METHODOLOGY

This paper utilizes a strictly doctrinal research approach. Doctrinal research, known as library-based research, primarily involves the study and analysis of legal statutes, case law, and academic writings. This method is ideal for exploring the theoretical and conceptual dimensions of law. It systematically presents legal doctrines and principles. In doctrinal research, primary sources include statutory materials, judicial decisions, and authoritative literature. Secondary sources like commentaries, articles, and legal summaries are also essential. The research process entails identifying, gathering, and critically evaluating these sources. The goal is to form logical conclusions and provide insights on the legal questions being studied. This paper aims to deliver a thorough and unified view of the legal structure relevant to the topic addressed.

VIII. LITERATURE REVIEW

The issue of food safety has been a subject of extensive research and policy discussion in the Indian context for a long time. Various scholars examine the legal and regulatory landscape governing food safety including the challenges and gaps in its implementation. The paper draws upon key provisions of the Food Safety and Standards Act 2006 which is considered a landmark legislation in India's efforts to harmonize food regulations. It refers to the journals of Agarwal⁸, Bhatnagar⁹, Chugh¹⁰, Garg & Garg¹¹, and many more about food safety and challenges in implementing food safety in India to comparative analysis of food safety regulatory frameworks.

The literature reviewed in the paper underscores the complex and multidimensional nature of food safety issues in India, requiring a comprehensive legal and regulatory approach that addresses enforcement, coordination, awareness, and alignment with the global benchmark. The current research aims to contribute to this discourse by examining the evolving landscape of food safety in India and proposing solutions to strengthen the legal and policy framework.

IX. MEANING, DEFINITION & EXPLANATION

There is no proper definition of food safety which causes difficulty to the professionals to communicate with the public. We can explain that food safety includes personal hygiene, safe handling of food, and storage of food in a way that prevents contamination and the growth of harmful bacteria viruses, and other microorganisms.

If we explain this more, food safety involves proper hygiene practices such as washing hands and surfaces cooking food to the correct temperature, and storing food at the right temperature which prevents the risk of foodborne illnesses. It also includes

⁸ Agarwal, N., Food Safety and Standards Act, 2006, 12 *Journal of Legal Studies*, 45-60 [2019]

⁹ Bhatnagar, P., Challenges in Implementing the Food Safety and Standards Act, 2006, 62 *Indian J Public Health*, 198-202 (2018).

¹⁰ Chugh, A., Regulatory Challenges in Ensuring Food Safety in India, 5 *Food Qual Saf*, 67-74 (2021).

¹¹ Garg, N. and Garg, K., Food Adulteration and its Health Hazards], 54 *J Food Sci Technol*, 833-839 (2017).

proper handling and storage of food including labelling, dating and rotation of perishable items.

When we consider market-to-consumer practice we usually think that the food is safe in the market and the concern is safe delivery and preparation of the food for the consumer. To ensure these safeties it is the duty of the respective authority and the open-eyed consumers.

X. RECENT INSTANCES

- Human finger in ice cream-A doctor in Mumbai discovered a piece of a human finger inside an ice cream corn ordered online on June 12, 2024.
- Live cockroach in IRCTC veg thali - A live cockroach in veg thali was received by a passenger provided by IRCTC.
- Snake in dinner - On 17th June 2024, a dead snake was found in the mess meal at Government Engineering College Banka Bihar
- Frozen centipede in Amul ice cream - A resident of Noida ordered an Amul family pack of ice cream online and found a centipede frozen within the ice cream package.
- A dead mouse in Hershey's chocolate - A customer ordered a bottle of Hershey's chocolate syrup via Zepto and discovered a dead mouse inside the bottle.
- Snake in mid-day meal - In January, a snake was found in the mid-day meal provided to school students in West Bengal, Birbhum district.¹²

Only in 2024, a series of food safety concerns across India indicate the serious landscape of food safety in India. From government-regulated services to private entities services, no one follows proper food safety guidelines. In India, there are an estimated 100 million foodborne illnesses every year which results in an average of 120,000 deaths every year.¹³

¹² Livemint, <https://www.livemint.com/news/india/human-finger-ice-cream-cockroach-irctc-food-mid-day-meal-snake-centipede-rats-fssai-food-safety-in-india-vande-bharat-11718937689910.html>, (last visited Jun. 27, 2024)

¹³Livemint, <https://www.livemint.com/news/india/human-finger-ice-cream-cockroach-irctc-food-mid-day-meal-snake-centipede-rats-fssai-food-safety-in-india-vande-bharat-11718937689910.html>, (last visited Jun. 27, 2024)

XI. LAWS REGULATING FOOD SAFETY IN INDIA

In India the food safety is regulated by the Food Safety and Standards Act 2006 which aims to ensure the availability of safe and wholesome food for human consumption. The main objective of these laws is to regulate the manufacture, storage, distribution, sale, import, and export of food products to ensure their safety and quality. These laws ensure the food licensing and registration penalties for non-compliance with the rules and regulations of packaging and labelling etc.¹⁴

Before the Food Safety and Standards Act 2006, many laws existed in India, they were

- The vegetable oil products (control) order 1947¹⁵
- The fruit product order, 1955 ¹⁶
- The Solvent extracted oil, De-oiled meal and Edible flower (control) order 1967¹⁷
- The Meat Food Products Order 1973¹⁸
- The Milk and Milk Products Order 1992 ¹⁹
- The Edible Oil Packaging (Regulation) Order 1998.²⁰

However, the legislations were overruled after the commencement of the Food Safety and Standards Act 2006 which came into force in 2011.^{21 22}

The Preamble to the Act states that it seeks to “*consolidate the laws relating to food and to 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 availability of safe and wholesome food for human consumption*”²³.

¹⁴ Wikipedia, https://en.wikipedia.org/wiki/Food_safety, (last visited Jun. 27, 2024)

¹⁵ The Vegetable Oil Products (Control) Order, 1947, No. 12, Acts of Parliament, 1947 (India)

¹⁶ The Fruit Products Order, 1955, Acts of Parliament, 1955 (India)

¹⁷ The Solvent Extracted Oil, De-Oiled Meal and Edible Flour (Control) Order, 1967, § 3, Acts of Parliament, 1967 (India)

¹⁸ The Meat Food Products Order, 1973, Acts of Parliament, 1973 (India)

¹⁹ The Milk and Milk Products Order, 1992, Acts of Parliament, 1992 (India)

²⁰ The Edible Oils Packaging (Regulation) Order, 1998, Acts of Parliament, 1998 (India)

²¹ Byjus, <https://byjus.com/free-ias-prep/fssai-food-safety-and-standards-authority-of-india/>, (last visited on Jun. 27, 2024)

²² Swaniti, (<https://www.swaniti.com/wp-content/uploads/2022/10/Food-safety-in-India.pdf>, (last visited on Jun. 27, 2024)

²³ Food Safety and Standards Act, 2006, No. 34 of 2006, Acts of Parliament, 2006 (India)

The FSSAI (Food Safety and Standards Authority of India) was set up in 2008 for proper monitoring of food hygiene and quality in India under the act of Food Safety and Standards Act 2006. It has been responsible for managing and monitoring food safety in our country.

Some of the key functions of FSSAI include²⁴

- **Setting rules and guidelines:**

FSSAI is authorized to set up rules and regulations that need to be followed by all food processing and manufacturing companies following hygiene and food safety.

- **Granting license:**

It is very important to license food-related businesses as food is a major necessity for human needs. To pursue any food-related businesses it should be granted a certificate and license from FSSAI.

- **Taste the standard of food**

The standard and quality of food manufactured are tested by the FSSAI to ensure the food quality and standard.

- **Regular audits**

Proper inspection is done by the FSSAI in food manufacturing and producing companies to ensure the standard and observe if they are regulated by their guidelines or not.

- **Maintaining records and data**

FSSAI has to maintain proper records of data of all registered organizations. It has the authority to terminate the license if they are not maintaining prescribed rules and regulations.

- **Spreading food safety awareness.**

²⁴ Byjus, <https://byjus.com/free-ias-prep/fssai-food-safety-and-standards-authority-of-india/> , (last visited on Jun. 27,2024)

The food is ultimately consumed by the people of our country and it is necessary to spread awareness and inform citizens about safe and hygienic food consumption

A. Key Legal Provisions for the affected consumers:

- **Compensation in case of injury or death of a consumer:**

Section 65 of Chapter IX of the Food Safety and Standards Act (FSSA) 2006²⁵ allows the adjudicator or court to award compensation to the victims or legal representative for food-related injuries or deaths to those who manufacture, or distribute, or import any item of food that induces harm or death to the consumer.

In case of death, the compensation should not be less than 5 lakh

In case of grievous injury, the amount should not exceed 3 lakh rupees

In case of injury not exceeding 1 lakh rupees

The compensation must be paid within 6 months of the altercation and must be provided within 30 days of the accident.

If a person is found guilty of a serious offence the offender's name residence and penalty may be published with expenses recovered as fines. The adjudicator or the court has the authority to cancel licenses, recall food, forfeit establishments, and grant prohibition orders in cases of severe injury or death.

- **Provisions for food adulteration:**

The **Food Safety and Standards Act (FSSA) 2006**, provides specific punishment for food adulteration.

Non-harmful to health-

Section 47 of this act provides, Import, packaging, storing, manufacturing selling or distributing adulterants by changing their purity to slip below the specified level or miss brand or contravention of any clause of the act or rules of procedure.

The penalties for these offenses are not exceeding two lakh rupees. (Section 57&59)

²⁵ Food Safety and Standards Act, 2006, § 65, No. 34 of 2006, Acts of Parliament, 2006 (India)

Section 41 empowers the food safety officers to seize adulterated food products and take necessary action. The penalty will be the same for preventing a food investigator from collecting samples or exercising his power.

Harmful to health-

Sale or distribution of any adulterated food item that contains any toxic or other health-injurious ingredients that can cause death or serious bodily harm can result in penalty not exceeding ten lakh rupees.

- **Other Provisions:**

Section 16 of the act mandates the FSSAI to ensure the availability of safe food for human consumption and section 26 of this act prohibits the sale of any unsafe or misbranded food, also Sections 27, 29, and 30 established standards for food safety levelling and advertising. The Consumer Protection Act 2019, Section 2(9) empowers to deal with defects in a product which includes food items, and sections 17 to 19 empower consumer courts to enter to entertain complaints and award compensation to affected consumers.

B. Legal Challenges :

1. Regulatory gaps:

Regulatory gaps are the loopholes to unsafe practices in the food supply chain. It is the key challenge to ensure food safety in the presence of regulatory gaps or inconsistency of laws to reduce these gaps.²⁶

2. Enforcement issues:

Effective enforcement of present laws is a great challenge to safeguard public health. However, the awareness among the consumers, proper training, and effective steps against corruption can hinder these issues.^{27 28}

3. Complex supply chain:

²⁶ Fssai, <https://foodregulatory.fssai.gov.in/>, (Last visited on Jun. 27, 2024)

²⁷ Prime Legal, <https://primelegal.in/2024/01/14/ensuring-food-safety-in-india-a-comprehensive-overview-of-laws-regulations-and-current-challenges/> (last visited on Jun. 28, 2024)

²⁸ FSSAI, <https://fssaigov.in/> (last visited on Jun. 28, 2024)

From farmers to consumers, food processing involves multiple stakeholders with a lack of transparency and accountability which poses a challenge in ensuring the safety and quality of the food products throughout the entire process.

4. Small and unorganized food business:

In our country, there are many small unorganized food businesses including the street food business which makes it difficult to ensure compliance with food safety standards uniformly. Training and education with a regulatory framework are needed to bring these entities formally.^{29 30}

5. Adulteration and fraud:

Adulteration and food fraud are the major challenges in our country where technological development is behind other countries in this field. This illegal practice involves deliberate alteration and misrepresentation of food products which can be a serious threat to the health of the consumers.^{31 32} According to the National Crime Records Bureau, Hyderabad topped the nation in food adulteration cases in the year 2022 with Andhra Pradesh closely following behind Telangana.³³

- **International trade:**

With the process of globalization of the food market, ensuring the safety of imported and exported foods is crucial.^{34 35}

- **Consumer awareness and empowerment:**

Consumer awareness is a key way to promote food safety by providing accurate information and enabling consumers to make informed decisions. Empowering

²⁹ Wikipedia, https://en.wikipedia.org/wiki/Food_Safety_and_Standards_Authority_of_India (last visited on Jun. 28, 2024)

³⁰FSSAI, https://fssai.gov.in/upload/knowledge_hub/1324105c8b442841f4eBroucher_Transforming_Food_Safety15_03_2019.pdf (last visited on Jun. 28, 2024)

³¹ FSSAI, <https://fssaigov.in/> (last visited on Jun. 28, 2024)

³²

https://fssai.gov.in/upload/uploadfiles/files/Current_Regulatory_Status_FSSAI_10_05_2018.PDF (last visited on Jun. 28, 2024)

³³ Adda247, <https://currentaffairs.adda247.com/hyderabad-leads-in-food-adulteration-cases-ncrb/> (last visited on Jun. 28, 2024)

³⁴ Prime Legal, <https://primelegal.in/2024/01/14/ensuring-food-safety-in-india-a-comprehensive-overview-of-laws-regulations-and-current-challenges/> (last visited on Jun. 28, 2024)

³⁵ Food Regulatory Portal, <https://foodregulatory.fssai.gov.in/> (last visited on Jun. 28, 2024)

consumers with their rights available to them can be a way to put pressure on stakeholders to make transparency in the food supply chain.^{36 37} The key socio-legal challenges in food safety require a combined effort from stakeholder, consumers, Government, and regulatory authorities to provide a safer and more secure food supply to all.

XII. CASE LAWS RELATING FOOD SAFETY IN INDIA

- **M/s Nestle India Limited v. The Food Safety and Standards, 2015**³⁸

In this case, Nestle India is a well-reputed food processing company that manufactures and sells various food products including Maggi noodles. In 2015 the Food Safety and Standard Authority of India filed a suit and sent a notice to Nestle India accusing them of violating food safety norms and regulations that Maggi noodles contain high levels of lead and monosodium glutamate which are very harmful to human health.

The FSSAI also contended that Nestle India did not comply with the requirements of labelling and also misled the consumer about the ingredients used in Maggi. The court directed FSSAI to conduct a refresh test in accordance with the law and regulation and the court directed Nestlé India to cooperate with FSSAI and provide all necessary information and samples for testing. The court directed to remove no added MSG from the label of the product and the further manufacturing process will be permitted if the amount of lead is not more than 0.25%.

- **Mukesh Kumar vs Food Safety Officer on 4 September, 2021**³⁹

In this case, Kay Pan Fragrances Private Limited has imposed a penalty of rupees 50000 under section 52 of the Food Safety and Standards Act 2006 for selling misbranded Pan masala products. The sample of Pan Masala was found to be misbranded on the grounds of violation of packaging and labeling. The court allowed

³⁶FSSAI, https://fssai.gov.in/upload/knowledge_hub/1324105c8b442841f4eBroucher_Transforming_Food_Safety15_03_2019.pdf (last visited on Jun. 28, 2024)

³⁷ Food Regulatory Portal, <https://foodregulatory.fssai.gov.in/> (last visited on Jun. 28, 2024)

³⁸ M/S Nestle India Limited vs The Food Safety And Standards Authority of India, (2015) 6 SCC 688

³⁹ Mukesh Kumar v. Food Safety Officer, 2021 SCC OnLine Del 4668.

the appeal to set aside the penalty of rupees 50000 and released the FDR. The judgment highlights the importance of the correct procedures and regulations in the food industry and the need for the authorities to ensure that the penalties imposed are fair and justified.

- **Pepsico India Holdings Pvt.Ltd vs Food Inspector & Anr on 18 November, 2010⁴⁰**

In this case, a food inspector had found the Pepsi sample to be misbranded as it did not conform to the prescribed standards under the Prevention of Food adulteration Act 1954. The high court observed that the food inspector was justified in finding the Pepsi sample to be misbranded under the Prevention of Food Adulteration Act 1954 as it did not conform to the prescribed standards and that the labelling was also defective. The court also emphasized that the inspector should have followed established processes such as sending a notice and allowing the respondent to submit its case. This case brought to light the need for food manufacturers to comply with the prescribed standards and labelling requirements under the food safety laws in India.

XIII. RECOMMENDATIONS TO REFORM

- **Technological improvement:**

Technological improvement is very much needed to monitor the whole food supply process. With the evolution of modern foods, we have to do integration of our technology. To trace adult items or isolation or identification of foods we have to modify our technology.

- **Public awareness program:**

There is no law that can be as effective if the people of the society were not aware of it. In the case of the consumer, the consumer should know about their rights and then needs to report any problem to the respected authority. The consumers who are aware of their rights can change the system.

⁴⁰ PepsiCo India Holdings Pvt. Ltd. v. Food Inspector & Anr., (2010) 179 DLT 596.

- **Increase penalties:**

The penalties which are mentioned in the existing laws and regulations are not efficient in controlling the infection of food safety standards. These penalties can be good compensation but not a strong message to prevent non-compliance with the rules and regulations. So increasing penalties can be a good initiative to stop these malpractices.

- **Strict law implementation**

We need more strict laws to control this type of malpractice. Food safety is not a mere civil wrong it is also a criminal offense that can endanger a human life slowly. Mere license cancelling or stopping production of a type of food is not a solution. Criminalization of this type of offense and negligence should be done as soon as possible. We should not compromise our right to health and right to food as both of these are fundamental rights that are necessary for us.

- **Strict implementation of present laws:**

New laws and regulations are not a piece of cake it needs many years to architect. For now, we have to implement the existing laws effectively which we have. Most of the people did not report the negligence, like hygiene, storage, and processing of food. Many food vendors did not follow minimum hygiene.

- **Rules and regulations for street vendors:**

Most of the people of our country consume foods from street vendors but there are no proper rules and regulations for them to maintain the standard of food hygiene. And it is not possible to scrutinize all food vendors by the food inspectors or officials. So, the consumers have to be more careful before consuming these foods.

- **Building capability**

We have to recruit more food inspectors, technology, and infrastructure to fill the gaps. In India, there are many regulatory gaps or inconsistencies in laws governing food safety which create loopholes that allow unsafe practices in the food supply chain. We have to give more powers to food safety authorities to check on the food safety measures and also we need some strict authority to observe their work.

XIV. CONCLUSION

Food is our basic necessity in life and the concern of food safety is an ever-changing topic. We cannot be stuck with the laws that we have now though we have to make new provisions to meet the needs of society. We should give priority to the food protection laws as the food safety is our fundamental right. Food safety is a critical element that takes place precedence over the freedom of trade profession and business operating according to article 19(1)(g).

The Maggi noodles scandal to the human finger in the ice cream and other such instances is a wake-up call to the stakeholders and the administration to create a safer and more secure food supply chain. India is now becoming an economic powerhouse and the government should take some initiatives to secure citizens basic needs such as food safety. Not only the government but also the citizens and consumers of our country should take the smart and communal commitment to food safety by which we can encumber corporate social responsibility underneath the law.

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- The Milk and Milk Products Order, 1992, Acts of Parliament, 1992 (India)
- The Edible Oils Packaging (Regulation) Order, 1998, Acts of Parliament, 1998 (India)