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Food Safety Standards and Laws an Essential Component of Public Health: A Critical Study

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ABSTRACT

An Effective Domestic food control mechanism is essential to protect the health and safety of consumers. They are also important to validate nations to assure the safety and quality of their food Products entering into the international market as well as to ensure that imported food meets national standards. There are numerous international organizations and agreements for food trade regulations, these agreements set standards and provide considerable obligations on both importing and exporting countries. It is a well-known fact that unsafe food is a prominent cause of human illness and around 4, 20,000 peoples die annually because of contaminated food. There is said that “If it is not safe it is not food” so it is an urgent need for every country to strengthen its food safety mechanism and Laws. Food and Agriculture Organization as a specialized agency of the United Nation mainly focused on promoting food security but still, there is scope for FAO to ensure the safety of food because in today’s world both the terms are interconnected. Another major International Organization which works for ensuring food safety with free trade between the nations is WTO (World Trade Organization). In India First and foremost legislation was the Prevention of Food Adulteration Act, 1954. The Prevention of Food Adulteration Act, 1954 was repealed and replaced along with eight other legislations by the Food safety and standards Act 2006. The primary reason behind the failure of the Prevention of Food Adulteration Act, 1954 was its inefficacy to meet International requirements.

I. INTRODUCTION

Safe and Hygienic food in sufficient quantity is required for the nourishment of life and the promotion of good health. However, contaminated food can act as a vector for bacteria, causing foodborne poisoning. Public health promotes and protects the health of people and the communities where they live, learn, work and play. There is say that if it is not safe it is not

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food and as per the reports of the Food and Agriculture Organization of United Nation With an estimated 600 million cases of foodborne illnesses per year, unsafe food is a menace to human health and economies of international. At the International level Pursuant to its obligations under the World Trade Organization (WTO), the FDA works with foreign governments and international standard-setting bodies to harmonize food safety laws, regulations and standards based on science. Food standards give confidence to consumers in the safety, quality and authenticity of what they eat. Even in the Indian Constitution right to food is inherent to the Right to life under Article 21 of the Indian Constitution read with Article 39A and Article 47. But still, India needs to travel far to strengthen its food safety laws and meet International Standards.

II. INTERNATIONAL LAW AND FOOD SAFETY

Article 25 of the Universal Declaration of Human Rights (UDHR) stated that everyone has a right to get proper life to health and wealth for oneself and the family. It includes the right to food, clothes, housing, health service, and public service. Article 12 of ICESCR (International Committee on Economic Social and Cultural Rights) that right to health includes various social-economy factors which promote people's healthy life and extends to the other health determinant factors such as food and nutrition, housing, proper and sufficient access to clean water, sanitation, healthy workplace, and healthy environment. At International Level, there are various organizations to deal with food safety issues but the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) of the United Nations and from the World Trade Organization (WTO) are prominent organizations to deal with the same. Food And Agriculture Organization and World Health Organization are the two main specialized agencies of the UNO working for food quality and safety. These are some other important international agencies dealing with food safety.

(i) **Codex Alimentarius Commission** The Codex Alimentarius Commission (CAC) is an intergovernmental body established in 1963 by FAO. The main objectives of Codex are protecting the health of consumers and Promoting Cooperation between nations for ensuring food safety standards.

(ii) **SPS and TBT Agreements** Both SPS and TBT Agreements are part of the WTO regime. WTO was established to eliminate trade barriers between the member states. But at the same time, both SPS and TBT provide space for restrictions on trade for the protection of human and animal health. Under the SPS agreement restriction should be justified on the basis of scientific evidence.

(iii) **WTO Dispute Settlement Body** There are numerous cases in which WTO DSB discussed and settled down the issues related to food safety and human health with special reference to SPS and TBT Agreement. “In EC – Hormones, the alleged risk was a food-borne one for human life and health, namely the risk related to contaminants (hormone residues) in foods (meat and meat products)”³. EC Hormones case is related to a dispute between the USA and European Union. The European Union banned meat and meat products from the united states of America due use of 6 hormones permitted in the USA but banned in the European States. WTO Dispute settlement body decided that the EU ban was justified under SPS Agreement. There are several other instances where WTO DSB has decided that ban on export is justified if food safety is compromised by the exporting member state.

III. DOMESTIC LAWS AND POSITION OF INDIA

Food safety and good health is always a priority for India. Not only Indian Constitution, but various other pre and post independence legislations also deal with food safety issues. Food safety issues have been addressed from the preamble to Directive Principles of State Policy.

Constitution of India and food safety

In the preamble of the Indian constitution word socialist and social justice has been used by the framers of the constitution and it is an open secret that it is not possible to achieve social justice without providing safe and adequate food. Honourable Supreme court in *Centre for Public Interest Litigation vs Union of India*⁴ Enjoyment of life and its attainment, including the right to life and human dignity encompasses, within its ambit availability of articles of food, without insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, etc. But the fact remains, many of the food articles like rice, vegetables, meat, fish, milk, fruits available in the market contain insecticides or pesticides residues, beyond the tolerable limits, causing serious health hazards⁵. Article 21 read with Article 47 of the Indian Constitution guarantees the right to safe and hygienic food.

Indian Penal Code-Indian Penal code defines offences and provides punishments. Food safety violation is one of the mass crimes. Food safety violations may result in millions of incidents of damage, directly affecting millions of people every day. Under Chapter XIV of the Indian Penal Code public offences have been classified as a private and public nuisance. Section 272 of the Indian Penal Code deals with adulteration of food and drinks according to Section 272

³ EC – Hormones, Panel Reports, para. 8.36 (US panel) and para. 8.39 (Canada panel).

⁴ 9 (2013) 16 SCC 279. This writ petition dealt with the harmful effect of soft drinks on human health.

⁵ Ibid

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 both⁶.

Special Food Safety Laws

Prior to the present set of legislation, there was some sort of confusion and multiplicity of food laws. The Indian food processing industry is regulated by several laws which govern the aspects of sanitation, licensing and other necessary permits that are required to start-up and run a food business. The legislation that dealt with food safety in India was the Prevention of Food Adulteration Act, 1954⁷. The act brought into force in place of the PFA is the Food Safety and Standards Act, 2006. That overrides all other food-related laws. It specifically repealed eight laws that were in operation prior to the enforcement of FSSA⁸.

IV. CONCLUSION

Foodborne diseases are a major cause of illness and death. Globally, an estimated 600 million persons become ill after eating contaminated food, and 420,000 die annually, resulting in 33 million disability-adjusted life years lost. Each year in India, an estimated 100 million foodborne illnesses and 120,000 foodborne illness-related deaths occur, and 8 million disability-adjusted life years are lost. For most foodborne illness outbreaks in India, aetiology is infrequently identified because of the lack of laboratory diagnosis. So it is an urgent requirement for Global Community as well as India to strengthen the food safety law regime.

⁶ Section 272 Indian Penal Code 1860

⁷ Vinay Vaish and Urmi Chudgar, Associate, Vaish Associates Advocates, Laws Governing The Food Industry In India – Revisited, available at: <https://www.mondaq.com/india/food-and-drugs-law/244880/laws-governing-the-food-industry-in-india--revisited><Accssed on 6/3/2022

⁸ Ibid