



LEGAL REGULATION OF FOOD SAFETY AND STANDARDS IN INDIA- CHALLENGES IN IMPLEMENTATION

Dr. N. Sathish Gowda¹, Sumithra.R²

¹Assistant Professor, ²Research Scholar, P.G. Department of Studies and Research in Law, Bangalore University, Bangalore
sumakaregowda@gmail.com²

INTRODUCTION

The meal time prayer propounds,

'Aum annapate annasya no dehyanamivasya shushminah.

*Prapradataramarisha urjam no dhehi dvipade chatushpade'*¹.

This means oh lord, the giver of food! May you provide us with healthy and energy producing food, grant happiness to those that give food in kindness. May this food give us strength.

Food is the fundamental need of all living creatures. It is inevitable for the existence of life on earth. Food has been defined as 'any substance, whether processed, semi processed or raw, which is intended for human consumption and includes water, drinks, chewing gums, and any substance which has been used in the manufacture, preparation or treatment of food'². Food, a basic necessity of life, derives its importance from the fact that it stimulates the appetite and supplies a variety of ingredients that give energy (carbohydrates, fat, dietary fiber); replace worn out tissues, thus promoting growth (protein); and help in preventing and curing diseases. The concept of healthy eating for healthy living and longevity is not new.

THE RIGHT TO FOOD

The Right to food is a basic Human Right derived from the ICESCR 1966³, recognizing the "Right to an adequate standard of living, including adequate food," as well as the "fundamental right to be free from hunger". States have the obligation to "respect, protect and fulfil" that is, first, the state must not itself deprive anyone of access to adequate food; second, it must protect everyone from being deprived of such access in any other way and third, when anyone is in fact without adequate food, the state must proactively create an enabling environment where people become self-reliant for food or, where people are unable to do so, must ensure that it is provided. Every individual is a Rights-holder, fully entitled to demand that the state perform these duties.

In India multiple regulations for Food⁴ have been enacted at different points of time to supplement each other. This incremental approach led to incoherence and inconsistency in the food sector regulatory scenario. The Food Safety and Standards Act, 2006⁵ is a statute that integrated eight different food laws⁶, and is a major

¹ Yajurveda (Yajurveda 11/83)

² Webster's Millenium College Dictionary, 4th edition, Wils, Dreamstach India, NewDelhi 2004

³ International Covenant on Economic, Social and Cultural Rights

⁴ Section 3 (j) Any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food, genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum and any substance including water used in food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substance.

⁵ FSSA 2006

⁶ Prevention of Food Adulteration Act of 1954, Fruit Products Order of 1955, Meat Food Products Order of 1973, Vegetable Oil Products (Control) Order of 1947, Edible Oils Packaging (Regulation) Order of 1988, Solvent Extracted Oil, De- Oiled Meal and Edible Flour (Control) Order of 1967, Milk and Milk Products Order of 1992 and also any order issued under the Essential Commodities Act, 1955 relating to food.



transformation that brought paradigm shift in the food regulatory scenario of the country. The food processing industry is one of the largest sectors in India in terms of production, growth, consumption, and export. Food processing industry is widely recognized as the 'sunrise industry' in India and is of enormous significance for India's development because of the vital linkages that it promotes between the two pillars of the economy, that is, industry and agriculture. Initiating a new era in food safety, the FSSA 2006 came into force across the country making it at par with international standards. The Act ensures improved quality of food for the consumers by following the general principles of Food Safety⁷ and censures misleading claims and advertisement by those who are in food business⁸.

Erstwhile, the Indian food regulations comprised of various food laws that were enacted at different points of time under the ambit of various ministries of Government of India. Historically they were introduced to complement and supplement each other in achieving total food safety and quality. The result was that the food sector in India was governed by a number of different statutes rather than a single comprehensive enactment. Each ministry prescribed its set of rules and standards under relevant Acts and Orders, often creating confusions and sometimes contradictory environment for the industry. In general, this regulatory system resulted in lack of comprehensive, integrated food law under single regulatory authority that ensures public health, safety and also failed to specify quality norms for meeting the globally recognized standards. The FSSA, 2006 came into effect, subsuming various Central Acts.

THE FOOD SAFETY AND STANDARDS ACT, 2006

Due to the mounting pressure from the industry and stakeholders for a single regulatory body and an integrated modern food law, the then Prime Minister of India Sri Atal Bihari Vajpayee in 2002 constituted a task force to review India's food and agro industries management policy. The task force made wide-ranging recommendations. One of the major recommendations was the consolidation of the various food laws under one umbrella so that a single authority can supervise the effective implementation. The task force proposed setting up a food regulatory authority. The task force also suggested an urgent need to align Indian food standards with international standards and that the government and industry should work together to ensure that India is well represented and fully heard in international forums like Codex Alimentarius Commission⁹.

The Ministry of Food Processing Industries took a keen interest and initiative in the implementation of the task force recommendations and drafted a new Food Bill in 2002. However, formulating a single legislation that would replace the existing multiple laws was rather difficult and slow, considering the number of stakeholders involved and the nature of India's food processing industry, which is dominated by numerous small-scale units. After extensive discussions and consultations, the Food Safety Standards Bill, 2005 was drafted and on January 15, 2005 was posted for public comments. The President of India signed the Bill on August 23, 2006 and was finally enacted as, The Food Safety and Standards Act, 2006¹⁰. The FSSA, 2006 has 12 chapters containing 101 sections and two schedules. The Act, inter alia, incorporates the salient provisions of the Prevention of Food Adulteration Act 1954 which is now repealed and is based on international legislations, instrumentalities and Codex Alimentarius Commission. This Act with its three tier structure, an apex food safety and standards authority, a central advisory committee and various scientific panels and committees lays more emphasis on science based and participatory decisions while adopting the contemporary approach in both standard setting and implementation.

⁷ Section 18 of FSSA 2006

⁸ *Id.* Section 24

⁹ A body that was established in early November 1961 by the Food and Agriculture Organization of the United Nations (FAO), was joined by the World Health Organization (WHO) in June 1962

¹⁰ Act No. 34 of 2006



AN OVERVIEW OF THE ACT

The Act established a single reference point for all matters relating to food safety and standards, by moving from multi-level, multi-departmental control to a single line of command. The Act established the Food Safety and Standards Authority of India (FSSAI) as an apex regulatory authority consisting of a Chairperson and 22 members¹¹.

The Act prescribes general provisions for Food additives¹² and processing aids are to be added only in accordance with provisions / regulations under the Act¹³. Foods are not to contain any insecticides or pesticides residues, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological contaminants in excess of limits prescribed under the regulation¹⁴. Regulations to be made for the manufacture, distribution or trade of any novel foods, genetically modified foods, irradiated foods, organic foods, foods for special dietary uses, functional foods, nutraceuticals, health supplements, proprietary foods¹⁵, etc. The Act provides the general administrative principles to be followed by the Central Government, State Governments and FSSAI while implementing the provisions of this Act¹⁶ and prohibits advertisements which are misleading or deceiving or contravenes the provisions of this Act¹⁷ and prohibits unfair trade practices¹⁸. All imported food articles are subject to this Act. No person shall import any unsafe or misbranded or sub-standard food or food containing extraneous matter¹⁹. Responsibility is imposed on the food business operator to ensure that the articles of food satisfy the requirements of this Act at all stages of production, processing, import, distribution and sale within the businesses under his control²⁰. The Act also imposes certain liabilities on the manufacturers, packers, wholesalers, distributors and sellers if an article of food fails to meet the requirements of this Act²¹. The Act compels the establishment of food recall procedures²² and also the licensing and registration of food business²³. The FSSAI and the State Food Safety Authorities are responsible for the enforcement of this Act²⁴. Small business operators and temporary stall holders are exempted from the license but need to get their businesses registered with the local municipality²⁵. There are general provisions relating to offences and penalties for failure to comply with the requirements of this Act. The Act makes provision for graded penalties where offences like manufacturing, storing or selling misbranded or sub-standard food is punished with a fine, and more serious offences with imprisonment²⁶.

MAJOR CHANGES UNDER THE FSSA

One of the primary changes that FSSA has brought about is imposing the responsibility of food safety on the manufacturer²⁷ for the first time, which was on the Food Inspector under the erstwhile Prevention of Food Adulteration Act 1954 for examination and prosecution. With the introduction of the supply chain concept under

¹¹ Section 4 of FSSA 2006

¹² *Id.* Section 3 (k) 'Food additive' means any substance not normally consumed as a food by itself or used as atypical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological purpose in the manufacture, processing preparation, treatment, packing packaging.....but does not include contaminants or substances added to food for maintaining or improving nutritional qualities.

¹³ *Id.* Section 19

¹⁴ *Id.* Section 21

¹⁵ *Id.* Section 22

¹⁶ *Id.* Section 4

¹⁷ *Supra* note 7

¹⁸ *Id.* Section 24

¹⁹ *Id.* Section 25

²⁰ *Id.* Section 26

²¹ *Id.* Section 27

²² *Id.* Section 28

²³ *Id.* Section 31

²⁴ *Id.* Section 29

²⁵ *Id.* Section 31 (2)

²⁶ *Id.* Section 48 to 67

²⁷ *Id.* Section 26



the FSSA, the focus will not be on inspection but on each person in the chain-sourcing, manufacturing, storing, distributing- assessed by Food Safety Officers²⁸. FSSA prohibits the manufacture, import, storage, sale or distribution of any such article of food which is unsafe, i.e., food whose nature, substance or quality is injurious to health. There are specific responsibilities laid down under the FSSA for the Food Business Operators²⁹, for ensuring the safety of food articles³⁰. FSSA extends its jurisdiction to all persons by whom food business is carried on or owned under the definition of FBOs. The FSSA also provides for food recall procedures³¹ whereby an FBO is required to immediately inform the competent authorities and co-operate with them, if the food which he has placed in the market is unsafe for the consumers.

Many customer friendly steps have been initiated to implement FSSA like an online licensing portal and online food import clearance system. The procedure for harmonisation of Indian food standards with those of the Codex Standards³² has been initiated. Notified referral labs³³ for purpose of food analysis have been established. Creating awareness through mass media for various stakeholders on topics like licensing and registration, misleading claims made by companies, misbranding, adulteration, hygiene practices and safe food messages, checking the safety of the imported food presently at select ports. FSSA will go a long way in boosting consumer confidence and giving the much needed boost to the food processing sector but the effective implementation is fraught with plentiful challenges. India presents a unique case of vastness and complexity. The very fact that the Act extends its jurisdiction to all persons by whom food business is carried on or owned under the definition of FBOs is a huge base to cover. Further, "Food Business"³⁴ includes food services, catering services, sale of food or food ingredients. Indian FBOs ranges from small time street hawkers to swanky high street food dealers with numerous intermediaries & complex processes and it is indeed a challenge to provide for regulatory oversight from farm to fork.

ISSUES OF FOOD SAFETY AND STANDARDS ACT

1. Multiplicity of Legislations- there were around eight sets of laws³⁵ that were regulating the food products and food items. Aggregating all these laws under one law and effectively implementing it.
2. Foods for special dietary purposes or nutraceuticals³⁶ or functional foods or health supplements which had flooded the food market were omitted from the purview of all laws. There was no specific law applicable to them.
3. Accountability- there was no concept of absolute liability unless things went wrong. At the outset, the food business operators were held not responsible but the food inspectors whose duty it was to inspect the food items were responsible in case of any eventuality.
4. Concept of self regulation- instead of regulating, prevention is better than cure must be the policy of the government by compelling the food business operator for self regulation.
5. Adopting a production to consumption approach to food control.
6. Increasing the role of consumers in decision making.
7. Imported foods were left out from the purview of the law as long as they satisfied the norms of the country in which they were manufactured.

²⁸ *Id.* Section 38

²⁹ FBO

³⁰ *Supra* note 19

³¹ *Supra* note 20

³² Codex Standards is a collection of internationally recognized standards, codes of practice, guidelines and other recommendations relating to foods, food production and food safety and set by Codex Alimentarius Commission

³³ Section 43 of FSSA 2006

³⁴ Section 3 (n) Any undertaking (profit or non-profit/public or private) carrying out any of the activities related to any stage of manufacture, processing, packaging, storage, transportation, distribution, import

³⁵ *Supra* note 2

³⁶ Nutraceutical is a new word, invented by Dr. Stephen DeFelice in 1989. It is two words put together: nutritional and pharmaceutical. Nutraceuticals are dietary supplements that are also called functional foods. Oxford Dictionary Thesaurus 2001, Indian edition, Oxford University Press



8. Microbiological hazards³⁷, pesticides residues, increased and misuse of food additives in the food.
9. In the event of the adulterated food in the market there was no food recall mechanism.
10. Adopting risk analysis as an essential discipline to improve food safety.
11. Food safety³⁸ is an important health issue. As countries witness a growth in International food trade, development of complex food types, processes and handling, there has been a parallel rise in the level of awareness on different food and water borne diseases. Food safety is becoming a growing global concern with regulatory regimes worldwide being faced with the challenge of minimizing or rather, curtailing food safety risks. Consuming contaminated food or beverages can result in illness or death. Approximately 5,000 deaths occur from food-borne illnesses every year. There are many preventative measures that can be taken at home and in restaurants to avoid potentially hazardous foods.

CHALLENGES IN THE IMPLEMENTATION THE OF FSSA

1. Population of India in 2011 was 1,21,01,93,422³⁹ and accounts for a third of the world's poor as remarked by the World Bank⁴⁰ earlier this year. The proportion of people living below poverty line (BPL)⁴¹ in India has come down from 37.2 per cent in 2004-05 to 21.9 per cent in 2011-12 — a decline of 15.3 percent as reported by the planning Commission⁴², Poverty and illiteracy have become major primary challenges in India for food safety and standards. It is often said that the poor will consume "anything" to mitigate their hunger. This may or may not be true. On one hand, survival depends mainly on access to a minimum quantity of food, on the other hand, consumption of food which does not meet minimum safety standards can also jeopardize survival. Governments must take the necessary steps to ensure that food quality and safety considerations form an integral part of their food security system.
2. The adoption of the international level standards⁴³ without preparing the domestic food industry will pose challenges for effective implementation of the Act. The small and medium scale industries that do not keep track of the regulatory changes will find it difficult to identify the procedural and compliance changes required under the Act. First the government must upgrade the local set up before trying to achieve the higher targets as set out by the provisions of the Act. The system should be upgraded in a phased manner before trying to take a leap. The gap between the existing system and the standards set by the Act will have to be cemented first. The government must realize that there is no point in setting higher targets and not able to reach them. No point in putting the cart before the horse.
3. The introduction of preventive measures at all stages of the food production and distribution chain, rather than only inspection and rejection at the final stage, makes better economic sense. Food hazards⁴⁴ and quality loss may occur at a variety of points in the food chain. A well structured, preventive approach that controls production and process is the preferred method for improving food safety and quality. Potential food hazards can be minimized along the food chain by employing good practices. Strategy for laying emphasis on introduction of food safety preventive measures at different levels of food sector need to be devised. The centre for the task of reaching the masses should be identified from where such message could be spread in the country. The ideal place for such activity could be the market place, where producers and

³⁷ Microbiological hazards include food poisoning bacteria such as *Salmonella*, *E.coli* and *Bacillus Cereus*. Bacteria are very small, visible only when examined under a microscope. If food poisoning bacteria are present in food, the food may look, smell and taste normal. If such food is eaten it may result in illness, such as sickness and diarrhoea, and even cause death in some situations. http://cooksafedumgal.gov.uk/FoodSafetyRefresher/safety_03.htm

³⁸ Section 3 (q) 'Food safety' means assurance that food is acceptable for human consumption according to its intended use

³⁹ <http://censusindia.gov.in/2011-prov-results/indiaatglance.html> accessed 21/12/2017 at around 7.30 am

⁴⁰ planningcommission.nic.in/reports/genrep/rep_hasim1701.pdf accessed on 21/12/2017 at around 8.00am

⁴¹ An income of less than \$1.25 per day per head of purchasing power

⁴² Supra note 37

⁴³ Supra note 29

⁴⁴ Section 3(u) 'Food hazard' means a biological, chemical or physical agent in or condition of food with the potential to cause an adverse health effect



buyers interact through sellers of food commodities. Various activities such as involving various stakeholders for changing emphasis from end product quality control to preventive measures throughout the food chain and introducing concepts like traceability need to be involved. Identification of key personnel at the grass root level for implementing the food safety preventive measures is essential.

4. In India the streets are dotted by food hawkers who are generally unaware of food regulations and have no training in food handling. They also lack support services such as good-quality water supply and waste disposal systems, which hamper their ability to provide safe food.
5. Although standards are specified for water to be used as an input in the processing/preparation of food, the FSSAI does not specify standards for potable water, which is usually provided by local authorities. Thus, it puts the responsibility on the food providers for ensuring that clean water is used, even when tap water does not meet the required safety standards. This is a tall order for small food enterprises and street food vendors. Costs also rise if each vendor invests in water purification systems. If such facilities were provided to food vendors, like in Malaysia and Singapore, India might be more successful in ensuring that this sector also maintains acceptable standards of hygiene and cleanliness. In a survey conducted by the Maharashtra government health department in 2006 it was shown that up to 20-25% of household food expenditure is incurred outside the home and some segments of the population depend entirely on street foods. This has been one of the consequences of rapid urbanization, with millions of people having no access to a kitchen or other cooking facilities. There are millions of workers without families and a large floating population who move in and out of the city for work, and these people largely depend upon street foods for their daily sustenance from places of work, schools, hospitals, railway stations and bus terminals. These foods are generally prepared and sold under unhygienic conditions, with limited access to safe water, sanitary services or garbage disposal facilities. Hence street foods pose a high risk of food poisoning due to microbial contamination, as well as improper use of food additives, adulteration and environmental contamination.
6. Shortage of testing laboratories and equipment has hampered the implementation of the Act and Government of India may also find it difficult to identify, recruit and then continuously train people for the accredited laboratories.
7. The Act also mentions certain terms like 'Food Safety Management System'⁴⁵. However, it is not clear from the Act what these terms imply and whether the CODEX definition of such terms is to be followed.
8. Take the case of the Tiffin suppliers who are popularly known as Dabba walas in Mumbai⁴⁶, how will the same food safety laws be applied to them. Will it not restrict the manufacture and supply of food that serve millions of poor consumers and office-goers every day. The Act does not make any distinction between the food products being manufactured by the agribusiness companies and the food products being sold by street hawkers and dhabas⁴⁷ that dot the national high ways. While the general prescriptions and regulations

⁴⁵ Section 3 (s) 'Food safety management system' means the adoption of 'Good Manufacturing Practices', 'Good Hygienic Practices' and Hazard Analysis and Critical Control Point' and such other practices as may be specified by regulation, for the food business

⁴⁶ A dabbawala is a person in Mumbai, India, whose job is carrying and delivering freshly-made food from home in lunch boxes to office workers. They are formally known as MTBSA (Mumbai Tiffin Box Suppliers Association), but most people refer to them as the dabbawalas. The dabbawalas originated when India was under British rule. Since many British people who came to India did not like the local food, a service was set up to bring lunch to their offices straight from their home. The 100-odd dabbas (or lunch boxes) of those days were carried around in horse-drawn trams and delivered in the Fort area, which housed important offices. Today, businessmen in modern Mumbai use this service and have become the main customers of the dabbawalas. In fact, the 5,000-strong workforce (there are a handful of women) is so well-known that Prince Charles paid them a visit during his recent trip to India. Several academic institutions regularly invite the dabbawalas' representatives for discussion, and to complement and enhance their academic content. At times, businesses find it useful to illustrate the application of how such a system uses Six Sigma principles to improve its operations. WHITE PAPER prepared by MBA STUDENTS AT THE UNIVERSITY OF NORTH CAROLINA'S KENAN-FLAGLER BUSINESS SCHOOL. Nishesh Patel and Naveen Vedula <http://mumbaidabbawala.in/>

⁴⁷ Dhaba is the name given to roadside restaurants in India and Pakistan. They are situated on highways and generally serve local cuisine. www.oxforddictionaries.com/definition/english/dhaba



spelled out meet the requirements of the agribusiness companies, the same cannot be blindly applied to the small-time hawkers that provide cheaper food to the working class in the urban centers.

9. Indiscreet, rampant and unscientific use of chemical fertilizers in agriculture and injecting the dairy animals with hormones to increase its yield would find their way into the end product which is meant for human consumption. The Act excludes plants prior to harvesting, standing crops and animal feed from its purview. Any harmful input⁴⁸ that could affect the safety standards of end food products is not effectively covered. It is difficult for food processing industries to take the onus for ensuring that such standards are within the acceptable levels in processed food when raw material fails to meet these standards. The Act should have integrated agriculture and food industries. The Act should have also banned the use of some of the insecticides and pesticides so that the same does not find its way into the raw material for food processing industries. The government banned the use of Endo sulfan, a pesticide⁴⁹, after lot of agitation by the public. The constant exposure of people to Endosulfan has resulted in people getting crippled and facing health hazards like severe neurological and congenital deformities.
10. It is a terrifying challenge to tackle the huge variety of food safety- related issues in the context of the country's sheer size, diversity and complexity of food markets. The central government has tried to create some islands of excellence in, for example, the dairy sector by launching nationwide annual food safety and hygiene audits of dairy plants. The National Productivity Council is a partner in those efforts. But unless they are transformed into a mass movement inculcating food safety concerns and consciousness among all sectors and the general public, a significant nationwide impact will not be felt.
11. The Indian food industry is dominated by microenterprises and Home-based units who prepare food products like condiments, traditional and ethnic food. It is thus imperative for policy prescriptions to address these sectors before an impact on the overall food safety scenario is felt.
12. The business culture and consumer participation are two key factors which determine the success or failure of food safety campaigns. The business culture is simply the attitude of entrepreneurs toward all stakeholders. Ideally, that culture should be characterized by the ability to welcome and adjust to change and efforts should be made for putting consumer's best interest at the top of the business agenda. An ideal policy environment should inspire the food industry, especially the Small and Medium Enterprises sector, to adopt the best possible food safety assurance practices not only to gain a competitive edge but also to fulfill its social responsibility. This means that a thorough understanding of country-specific business cultures is essential before launching large-scale food safety campaigns. On the whole, in diverse countries like ours, an understanding of region/province-specific business cultures is essential.
13. Food safety records are invariably poor when consumers are ill informed, unorganized, and not vocal. Mass food safety movements are, to paraphrase the definition of democracy, for consumers, by consumers, and of consumers. Their success can only be ensured with active consumer involvement. Most food campaigns fail because they are excessively controlled by government functionaries with little or no involvement of consumers or consumers' organizations. The organization and empowerment of consumers coupled with timely redress of grievances form an integral part of any meaningful food safety move. While consumers have every right to expect uncompromising food safety standards at competitive prices, they must also be ready to pay extra money. The most influential and widely quoted statement on consumer rights was from US President John F. Kennedy in 1968, who highlighted consumers' "right to safety, right to information, right to choose, and right to be heard." Consumer International defined eight basic consumer rights to: satisfaction of basic needs; information; choose; safety; representation; redress; consumer education; and a healthy environment. Thus consumers and consumers' rights organizations need to be in the forefront in exercising their right to food safety and involved in policy formulation. This is possible only when they are vocal, well organized and present everywhere instead of only in large cities. The government must allow representation of consumer organizations in regulatory bodies and on consultative committees so that their

⁴⁸ Pesticides in vegetables or antibiotics in animal feed

⁴⁹ Endosulfan is a harmful insecticide and can cause several health hazards in human beings.

http://www.indiaenvironmentportal.org.in/files/Effect_of_endosulfan.pdf



views are heard and reflected in policies. The real challenge lies in accepting and honoring the rights of consumers and educating them on those rights. Alert, organized consumers are essential for creating a food safety chain reaction and turning it into a mass movement. Isolated legislative efforts and export centric initiatives may succeed at best in creating some islands of excellence, leaving the majority of the population untouched.

14. While the professional manner in which the constitution of various committees is spelled out is commendable, what is intriguing the Researcher is the lack of adequate peoples' representation in Food Safety and Standards Authority. Only one member each from a consumer organization and agribusiness companies have been slated to be on the Authority. This is grossly unfair. Overstuffed by bureaucrats and also headed by a senior bureaucrat, there is no space in the authority for the informal food sector.
15. Some economists have apprehended that the objectives of the Act appears to be directed at eliminating the competition that informal food sector including the dhabas and tiffin carriers pose to the agribusiness companies. As long as food is being sold at such cheap prices, the agribusiness companies will find it difficult to gain a strong foothold in the Indian market. The food offered by the dhabas and the hawkers has generally been found to be more hygienic and fresh than what is sometimes offered in the top hotels, where many of the dishes that are served are usually cooked from frozen foods loaded with preservatives. It is also important that the Act takes into consideration not only food safety but also sets up criteria for monitoring the nutritive and human health aspects of the food products being sold. Food safety has often been misconstrued as nutritionally fit. If the junk food sold through the fast food joints was good for human consumption i.e., even if it conformed to safety standards, there is no reason that obesity should emerge as the biggest killer worldwide. In the United States, where junk food is a habit, resulting obesity has now emerged as the biggest threat to nation's health.
16. Unlike in the European countries, hotels, restaurants and supermarkets are not the only sources for food consumption in India. Home cooking is the major source of people's daily food and therefore regulations on industrialized and preprocessed food alone won't do.
17. Another serious lapse is the silence on labeling of food products specifying whether they are genetically modified or not is also in tune with the commercial interests of the multinational companies. They have been spearheading a global campaign that does not provide the consumers a choice between a normal product and a GM food - Which in reality means that the government has no objection to genetically modified crops being grown and consumed by the people. But it has been shown that these GM crops and seeds can impact food safety and health of the consumers in the long run.
18. The time limit for prosecution also has been fixed as the trial to start within a year from the date of commission of offence. As of now more than one lakh cases relating to food standard offences are pending in various courts across the country. Deadlines have been extended many times for licensing and registration of food business operators, frustrating the very purpose of the Act.
19. Coordination between agriculture and food industry is the need of the hour as the Act exempts standing crops from its purview⁵⁰. Integrated farm to table concept should be adhered to. There is a need for greater involvement of rural sector in food safety issues as most of the food articles for food processing industry are sourced from rural areas.

CONCLUSION

Food adulteration is common in India. Even milk, consumed primarily by children, isn't spared. What's particularly worrying is the kind of substances used to adulterate, including toxic chemicals. This shows the tradeoff between the risk of getting caught and the 'reward' of huge profits is skewed heavily in favour of the latter. The government must focus on raising the risks to the adulterator. One way of doing this is by hiking the penalty, including making it analogous to attempt to murder in extreme cases. It's equally important to regularly check foodstuff for adulteration and ensure speedy trials.

⁵⁰ Supra note 2



Indexed with IIJIF
Impact Factor : 1.021
ISSN: 2456 - 608X

International Journal of Legal Research and Studies

An UGC Approved Online Law Journal

To fully realize the benefits of the Act, FSSAI needs to maintain total transparency in rule framing. Involvement of industry and other stakeholders and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law is essential for setting of sound scientific standards.