



Intersection of Right to Health and Right to Safe Food: An Analysis of Food Safety Laws.

Romisa Rasool

Abstract.

Right to safe food may not be treated as a cognate of Right to Health— a facet of Right to Life; albeit an independent right, given its relevance and influence on human health. In this paper earnest attempt has been made to examine and analyse the constitutional perspective viz a viz Right to Safe Food. Further, statistical revelations of various national and international agencies depicting a dejected picture on growing incidents of contraventions of food safety laws have been discussed in this paper.

Introduction.

Food satisfies man's hunger. It is inextricably woven into physical, economic, psychological, intellectual and social life of man. Food is more basic requirement than shelter and clothing as it furnish adequate energy required for the body's growth, maintenance, repair and reproduction. Food contains nutrients, the balanced consumption of whom fulfill the aspects necessary for the functioning of the body and promotion of good health.¹ **World Health Organisation (WHO)** define the term health as “**the state of complete physical, mental and social well-being** and not merely the absence of disease or infirmity”² otherwise a primary facet of good health. Health of a human being basically depends on the consumption of safe food. Food that has not lost its nutritional value and is uncontaminated by virtue of its physical, chemical, and microbiological composition is considered to be safe. Intake of safe food ensures protection from food borne diseases. Food Borne disease are diseases caused by consumption of contaminated food and drink.³ Food borne illnesses are usually infectious or toxic in nature, caused by bacteria, viruses, parasites or chemical substances entering the body through contaminated food or water arising from

¹ N.Shakuntala Manay and M.Shadaksharaswamy, *Foods Facts and Principles* 1(New Age International, NewDelhi, 3rd Edn. Reprint 2014).

² Definition of Health given by World Health Organisation. Available at: [World Health Organization\(WHO\) Definition Of Health - Public Health](https://www.who.int/health/definition-of-health) (last visited on 18 May, 2022).

³ Definition of Foodborne diseases as given by Jay W. Marks. Available at: [Medical Definition of Foodborne disease \(medicinenet.com\)](https://www.medicinenet.com/foodborne-disease/definition.htm) (last visited on July 14,2022)

improper handling, preparation or storage of food.⁴ The consumption of unsafe food has a direct bearing on the health of the person; it enhances the chances of being afflicted with food borne disease.

Adulteration and contamination of food is one of the major issues concerning human health. Practices of adulteration and contamination affect the quality of the food, making it unsafe for human consumption, therefore, is a biggest challenge guaranteeing safe food. The **Codex Alimentarius Commission (CAC)** defines food safety as “the assurance that food will not cause harm to the consumer when it is prepared and/or eaten according to its intended use”.⁵ A topmost concern for public health and a key component of the 2030 agenda for Sustainable Development Goals is food safety.⁶ By ensuring safety of food the prevalence of food borne disease can be largely contained.

Emergence of Food Safety Laws.

World has witnessed an alarming growth of population. Consumers’ priority of variety of foods has resulted in a more complex food chain. Earlier the production and consumption of food was circumscribed in local areas, so was the matter of ensuring food safety. The production of food has increased due to industrialization and countries have started to export the foods produced and manufactured in excess; visible results of which can be seen in the growth of the food trade at international level. This became a potent source for the spread of food borne diseases as also has enhanced the reach of the diseases causing infections immensely. Food contaminated with infection in one country has a potential to cause serious outbreaks in another country provided same is monitored and checked properly. Contaminated food has a tendency to jeopardize the health of large population, therefore, need was felt to regulate the food trade both at national and international level with an object of securing health and welfare of people. Right to health being sacrosanct is needed to be safeguarded against the potential threats posed by diseases caused by the consumption of unsafe food.

Right to Health and Unsafe Food.

Right to health is the basic and inalienable right of seminal importance. The premise on which the enjoyment of other rights is rested is- Right to Health. One can enjoy other rights and freedoms only when he is hale and hearty. The characteristic of right to health is assurance of protection from diseases. Though the right is not limited to protection from diseases only, however same lies at the root of this right. Primary instrument of safeguarding the right to health is the **International Covenant on Economic, Social, and Cultural Rights, 1966(ICESCR)** which recognizes “*the right of everyone to the enjoyment of the highest attainable standard of physical and mental*

⁴ National Health Portal India, Food Poisoning Available at: <https://www.nhp.gov.in/disease/digestive/stomach/food-poisoning> (last visited on Aug. 12,2022)

⁵ A. Uçar, M. V. Yilmaz, and F. P. Çakıroğlu, "Food Safety – Problems and Solutions", in Significance, Prevention and Control of Food Related Diseases. London, United Kingdom: IntechOpen, 2016 [Online]. Available at : <https://www.intechopen.com/chapters/50189> Accessed on 22 Aug. 2022.

⁶ The World Health Organisation Report. Available at: [who-global-strategy-food-safety-2022-2030.pdf](https://www.who.int/publications-detail/who-global-strategy-food-safety-2022-2030) (last visited on July 2, 2022.

health.”⁷ Right to health has traditionally been limited to access to health care and the building of hospitals, however, this concept has undergone a sea change. The Committee on Economic, Social and Cultural Rights, a body responsible for monitoring the ICESCR⁸ enumerated the underlying determinants of health, viz:

- a) **Safe drinking water and adequate sanitation;**
- b) **Safe food;**
- c) **Adequate nutrition and housing;**
- d) **Healthy working and environmental conditions;**
- e) **Health-related education and information; and**
- f) **Gender equality.**⁹

Recognition of safe and nutritious food and safe drinking water as the determinant of health elevates the right to safe food as an implicit right under Right to Health. Assuring safety of food will ipso facto protect and facilitate the right to health which is closely dependent on the quality of food. Better the quality of food better are the chances of protection from diseases. Most of the food borne diseases could be effectively prevented by maintaining the good quality of food. Availability of safe and nutritious food is the bedrock of any healthy nation. In order to guarantee the right to health through safe food, efforts are underway viz: enactment of legislations aimed at ensuring safe food at both global and national level. Commendable initiatives are taken by different institutions and organizations.

Right to Health and Safety of Food: Position in India.

Right to health is amply protected under the Constitution of India within the ambit of Article 21, guaranteeing right to life and personal liberty. Right to life is the most fundamental of all human rights, and any decision affecting human life or which may put an individual's life at risk, must call for the most anxious scrutiny.¹⁰ Right to life is one of the basic human rights and not even the State has the authority to contravene this right.¹¹ Earlier approach of interpreting Article 21 was pre-limited by literal interpretation. However, the scope has been dilated to include all aspects of life which would go to make a man's life meaningful and worth living.¹² Right to life under Article 21 does not mean merely animal existence, but living with human dignity.¹³ The Hon'ble Supreme Court of India has extended the scope of Article 21 in order to bring within its ambit the right to health. Article 21 though couched in negative phraseology has been interpreted in such a manner so as to impose positive obligation upon the state to take steps for ensuring to the individual a better enjoyment of his life and dignity via maintenance and improvement

⁷ Article 12 of International Covenant on Economic, Social and Cultural Rights, 1966.

⁸ The Covenant was adopted by the United Nations General Assembly in its resolution 2200A (XXI) of 16 December 1966

⁹ Office of the United Nations High Commissioner for Human Rights, The Right to Health Fact Sheet No. 31

<https://www.ohchr.org/sites/default/files/Documents/Publications/Factsheet31.pdf>

¹⁰ *Bugdaycay vs. Secretary of State*, (1987) 1 All ER 940.

¹¹ *State of A.P vs. Challa Ramakrishna Reddy*, AIR 2000 SC 2083.

¹² Dr. Durga Das Basu, *Commentary on the Constitution of India* 3104 (Vol. 3 8th edn. Lexis Nexis Butterworths Wahwa, Nagpur 2008)

¹³ *Francis Coralie v Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

of public health.¹⁴ Right to health is a fundamental right under Article 21 of the Constitution of India. The Hon'ble Court has emphasized that a healthy body is the very foundation of all human activities. In **Vincent v. Union of India**,¹⁵ the Apex Court reiterated that attending to public health is the highest priority, perhaps the one on the top.

Constitutional directives contained in Part IV Article 47, of the Constitution of India cast an obligation upon the state to ensure the creation and sustenance of conditions congenial to good health.¹⁶ Right to health has been recognized explicitly as an integral facet of meaningful right to life in the year 1995.¹⁷

Right to safe and nutritious food uptill now was not considered as priority given the economic conditions of the country. Food security has taken lead over the safety of food. Focus of the government has been to provide to the every person, food, given the size of population living below poverty level. Right to food has been recognized by the Hon'ble Supreme Court of India in various judicial decisions, one such recent decision has been delivered in the case of **Haripal vs State Of U.P.**¹⁸ Hon'ble Supreme Court of India ruled that the Fundamental Right of Right to Life under Article 21 of the Constitution must be interpreted to include the right to live with dignity, having right to food and other basic necessities. Pertinent mention of right to safe food, however, has not caught the attention of the Hon'ble Court, as a result does not find any place in the instant judicial pronouncement.

Right to safe food has always been identified as the important factor guaranteeing right to health. Distinction has not been drawn between right to safe food and right to health. In the case of **Centre for Public Interest Litigation vs. Union of India**¹⁹ the Supreme Court got an opportunity to declare right to safe food as an implicit right under Article 21 however, same was not done, Hon'ble Court was perhaps not able to consider the opportunity to delineate and carve out the independent right to safe and nutritious food apart from right to health guaranteed under Article 21. Relevant extract of the judgment is exacted below:

“Any food article which is hazardous or injurious to public health is a potential danger to the fundamental right to life guaranteed under Article 21 of the Constitution of India. A paramount duty is cast on the States and its authorities to achieve an appropriate level of protection to human life and health which is a fundamental right guaranteed to the citizens under Article 21 read with Article 47 of the Constitution of India”.

In **Swami Achyutanand Tirth v. Union of India**,²⁰ the issue of rampant adulteration of milk was listed for hearing before the Apex Court by virtue of Public Interest Litigation (PIL). Apex court taking serious note of the report of

¹⁴ MP Jain, *Indian Constitutional Law*, 1208 (8th edn, Reprint 2019 Lexis Nexis Gurgaon)

¹⁵ AIR 1987 SC 990.

¹⁶ Sunita Kashyap, *Right to Health under Indian Law* 48 (Regal Publications, New Delhi 2016)

¹⁷ *Consumer Education and Research Centre v. Union of India* (1995) 3 SCC 922.

¹⁸ 24 may 2021.

¹⁹ (2013) 16 SCC 279.

²⁰ AIR 2016 SC 3626.

the Executive Summary on National Survey on Milk Adulteration, 2011²¹ issued directions to the Central and State Governments to consider amending Food Safety and Standards Act, 2006 and the Indian Penal Code, 1860 (IPC) that the offences shall be made punishable with life imprisonment. Further, it was observed that amendments incorporated shall provide for stringent and deterrent punishment. Hon'ble Court has issued ten directions addressing various aspects dealing with this issue and reducing the threat of food adulteration. The directions stressed on effective implementation of FSSA through identification of high risk areas and frequent inspections in those areas. The infrastructure of food quality testing labs is required to be revamped. To raise awareness among common people state authorities must maintain websites on which complaint mechanism and contact details of food safety authorities must be displayed.

To ensure availability of the safe and hygienic food for consumption of living beings is bounden duty of every government and same shall not be eschewed of. Protection should be ensured from the presence of harmful substances in food, which make it unsafe for human consumption, and also from substances which though as such do not pose any threat to health, however reduce the nutritional value of food. Apex Court could have grabbed the occasion by pronouncing the right to safe food as independent fundamental right which would have imposed a positive obligation on the state and in case of contravention, right to approach the writ court could have been secured.

International Institutions Governing Food Safety laws.

Concern for safety of food has assumed global implications due to rapidly expanding international food trade. Adoption of food safety measures as non-tariff barriers and lack of uniformity of food safety regulations in different countries has called for formulation of common minimum uniform food safety regulations in order to ensure hassle free trade. Initially the focal point for formulating uniform food safety regulations has been restriction free trade and not the protection of consumers health. In order to do away with the barriers in food trade forged by diverse laws, the major step towards harmonization of food safety standards were carried through the joint efforts of **Food and Agricultural Organization (FAO) and World Health Organization (WHO)**. FAO and WHO addressed variety of issues through their complementary responsibilities in order to enhance global food safety and safeguarding the health of consumers. While FAO normally deals with food safety concerns along the food production chain, WHO monitors and maintains strong relationships with the public health sector. The formulation of **Joint FAO/WHO Food Standards Program** in 1962 at Geneva addressed the problem of unsafe food to a large extent.

²¹ The report declared that at the national level, 68.4 per cent of milk being sold is adulterated and alleging that the worst performers were Bihar, Chhattisgarh, Odisha, West Bengal, Mizoram, Jharkhand and Daman and Diu, where adulteration in milk was found up to 100 per cent.

Codex Alimentarius Commission (CAC).

The Codex Alimentarius Commission (CAC) was founded by the Joint FAO/WHO Food Standards Conference as the foundation for collaboration between the two organizations. CAC is the intergovernmental body mandated to develop code of food and related texts that are part of Codex Alimentarius. The term “Codex Alimentarius” is Latin term which means Food Code. Codex Alimentarius is a collection of internationally adopted food standards and related texts presented in a uniform manner and developed by the Commission. The CAC develops harmonized international food standards, guidelines and codes of practice to protect health of consumers and to ensure fair practices in food trade. It lays standards for processed, semi processed or raw foods. These standards aim at ensuring healthy and adulteration free food products for consumers requiring proper labeling and packaging.²² The codex standards are not substitute for, or alternative to national legislations. Though advisory in nature, Codex standards, guidelines, and codes of practice must be freely converted into national law or regulations for their enforcement.²³ The food producers/ processors/ industries have to follow the laws of the country.

Compliance with codex standards had been absolutely voluntary till the **World Trade Organization (WTO)**²⁴ announced codex standards to be the reference point for judging the validity of food safety laws of countries. The adoption of the Codex Alimentarius as the source of international food standards by WTO's **Agreement on Sanitary and Phytosanitary Measures (SPS) and Agreement on Technical Barriers to Trade (TBT)** in the year 1995 became one of the most significant recent influences on food regulation worldwide. The SPS Agreement acknowledged the increasing globalization of food production and food trade worldwide and recognized Codex standards as the minimum standards which every WTO Member state must conform to.²⁵ The SPS and TBT Agreements strike a balance between, members rights to regulate for legitimate objectives, such as food safety or consumer protection, besides ensuring that such regulations do not become unnecessary or discriminatory barriers to trade. Though, the countries are allowed to frame stricter standards than the Codex standards, but for that matter the states have to produce proper scientific justification. It is worth mentioning that the SPS Agreement does not mandate nations to implement any particular set of health and food safety measures. Instead, the SPS Agreement sets forth a framework of norms in order to create a balance between members rights to adopt measures to maintain food safety, and the goal of reducing the unnecessary consequences of such restrictions on trade.

The WTO member states can sue other member states for maintaining food and environmental safety standards stricter than Codex standards. The member state can continue with the stricter food safety standard only when the WTO Dispute Settlement body deems such measure to be justified. Thus, Codex standards became the reference

²² Vanisha Nambliar, *A TEXTBOOK ON Food Contamination and Safety* 9 (Anmol Publications, NewDelhi, 2004)

²³ The Food and Agriculture Organization of the United Nations and the World Trade Organization, *Trade and Food Standards*, 2017. Available at: https://www.wto.org/english/res_e/booksp_e/tradefoodfao17_e.pdf (Last visited on Sep. 12, 2022).

²⁴ General Agreement on Tariffs and Trade (GATT) – the internationally negotiated post-Second World War instrument that gave rise to the WTO.

²⁵ Jessica Vapnek, Melvin Spreij, “*Perspectives and Guidelines on Food Legislation with a New Model Food Law*” 3 (FAO Legislative Study 87, Food and Agriculture Organisation of United Nations, Rome 2005).

point for all food related laws.²⁶ India being a member of WTO, is signatory to the SPS Agreement and thus has to adopt for international trade, the standards, guidelines and recommendations issued by CAC.

Legislations Relating to Food Safety in India.

Provisions for safety of food existed in Indian Laws before Independence, however, the said provisions were not sound and effective, but their role in curbing adulteration cannot be denied²⁷. The provisions contained in the Indian Penal Code, 1860 (IPC) relating to food safety are there still since 1860 and are available till date. **Sections 272²⁸ and 273²⁹** of the Code prohibit adulteration of food and drink and sale or exposure for sale of food article rendered unfit for consumption. The contravention of the provisions can call for imprisonment of either description for a term which may extend to six months or with fine or both. Perusal of both the provisions indicates that these provisions deal with only one kind of adulteration of food or drink which will make these food articles harmful for human consumption. Adulteration of food with harmless ingredients for the purpose of getting more profit is not covered by these sections of IPC as same are not punishable under the said sections.³⁰ Mixing of water to milk is adulteration but does not make milk harmful.³¹ The condition precedent for attracting the provisions of IPC is the very existence of contract of sale. The articles of food and drink must be sold or offered or exposed for sale.³² Where the unsafe food articles are served at dinner free of cost the provisions of IPC will not be attracted. Owing to these limitations a major rehaul of the existing laws governing food safety was carried out by the Parliament of India in years 1954 and 2006. The consumer has the option either to take recourse to IPC or Food Safety and Standards Act, 2006 (FSSA).³³

Prevention of Food Adulteration Act, 1954

The Parliament of India enacted the Prevention of Food Adulteration Act, 1954 (PFA) in terms of Entry 18 of the List III (Concurrent List) of Schedule VII of the Constitution.³⁴ The PFA received the assent of the President on

²⁶ Kiron Prabhakar, *A Practical Guide to Food Laws and Regulations*, 13 (Bloomsbury India New Delhi, 2016).

²⁷ Sunita Kashyap, *Right to Health under Indian Law* 104 (Regal Publications, New Delhi 2016)

²⁸ The Indian Penal Code, 1860, s. 272-Adulteration of food or drink intended for sale. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

²⁹ The Indian Penal Code, 1860, s. 273 -Sale of noxious food or drink. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

³⁰ Dr. Hari Singh Gour's Penal Law of India, 2125 (11th edn., Law Publishers, Allahabad 2003)

³¹ *Abdul Rehman* (1902) 1 L.B.R 153.

³² Dr. Hari Singh Gour's, The Indian Penal Code, 847 (12th edn., Law Publishers, Allahabad, 2005)

³³ Reddy and Reddy Firm, Prosecution under Food and Safety Standards does not bar prosecution under IPC: Supreme Court, *available at:*

<https://www.reddyandreddy.org/prosecution-under-food-and-safety-standards-act-does-not-bar-a-prosecution-under-ipc-supreme-court/> (last visited on November 10. 2022)

³⁴The Constitution of India, Schedule VII, List III, Entry 18: Adulteration of foodstuffs and other goods.

September 29, 1954 and came into operation on 1st June, 1955. The main reasons for enacting the PFA were the lacunae in the provisions of IPC, 1860 and the diversity of laws relating to food adulteration in different states. The PFA was implemented to ensure that the food is pure and its quality has not been compromised, as well as to provide penalties for the import, export, production, sale, etc. of any adulterated food products. The PFA covers food standards, general sampling and testing processes, food analysis, the authority of authorized officials, the type of penalties, and other aspects relating to food. Any mixing of inferior or cheaper ingredient or abstraction of valuable ingredients from food would contravene PFA, incorporating an offence of lowering the nutritional value of food cured one of the main existing loopholes in the provisions of IPC. However, the PFA Act, 1954 too was marred with deficiencies. The PFA Act failed to mark distinction between the categories of adulteration, as it provided the same punishment in the form of imprisonment for all kinds of adulteration.³⁵ The PFA failed to carry out the grading of contraventions as certain minor contraventions or unintentional adulteration could have been successfully curbed through civil liability. The adulteration of food is not an offence under PFA unless the substance which is adulterated is a substance used as food or drink for human consumption. The exclusion of food meant for animals from the ambit of PFA has affected its efficacy. A number of scientific studies have proved the transmission of infections from animals to humans, this grave omission of ensure safe food to animals has a direct bearing on human health.

In addition to the loopholes in PFA, different laws and orders governed the food manufacturing industry implemented by different agencies.³⁶ The multiplicity of existing food laws and difference of approaches in implementing the same among different agencies created confusion among consumers, producers, manufactures, distributors and Food Business Operators (FBOs). A need was felt for having an umbrella legislation which could single handedly govern the area of food safety. The Food Safety and Standards Act, 2006 filled this vacuum.

Food Safety and Standards Act, 2006 (FSSA).

The Food Safety and Standards Act, 2006 consolidated the laws relating to food safety and set up the Food Safety and Standards Authority of India (FSSAI). The administrative ministry overseeing the execution of FSSA is the Ministry of Health & Family Welfare Government of India (GoI). In order to assure the availability of healthy, safe food for human consumption, this Act, establishes science-based standards for food products and controls their production, storage, distribution, sale, and import.³⁷ This much-awaited revolutionary piece of legislation received the approval of the Parliament on the 23rd August, 2006. FSSA was enacted in India with a view to standardize, safeguard, and advance public health through the control and regulation of food. It also provides the methods and resources by which food is marketed and advertised.³⁸ The FSSA aimed at harmonizing the domestic food laws in

³⁵ The Prevention of Food Adulteration Act, 1954, s. 16.

³⁶ All Acts are repealed effective from 05/08/2011. Orders relating to food under Essential Commodities Act, were repealed.

³⁷ Kiron Prabhakar, *A Practical Guide to Food Laws and Regulations*, 3 (Bloomsbury India New Delhi, 2016).

³⁸ Khaitan & Co, Testing of Food Samples Under the FSSAI Act: Mechanism and The Way Forward, *Lexology*, July 27, 2022. Available at: <https://www.lexology.com/library/detail.aspx?g=4fa7aeb8-4ce1-4489-93c4-d9a79f0a1cc0> (last visited on Oct. 10, 2022)

tandem with international food policy. The compliance with the minimum requirements of Codex Alimentarius has remained the focal point for the FSSA.

Modifications brought by FSSA

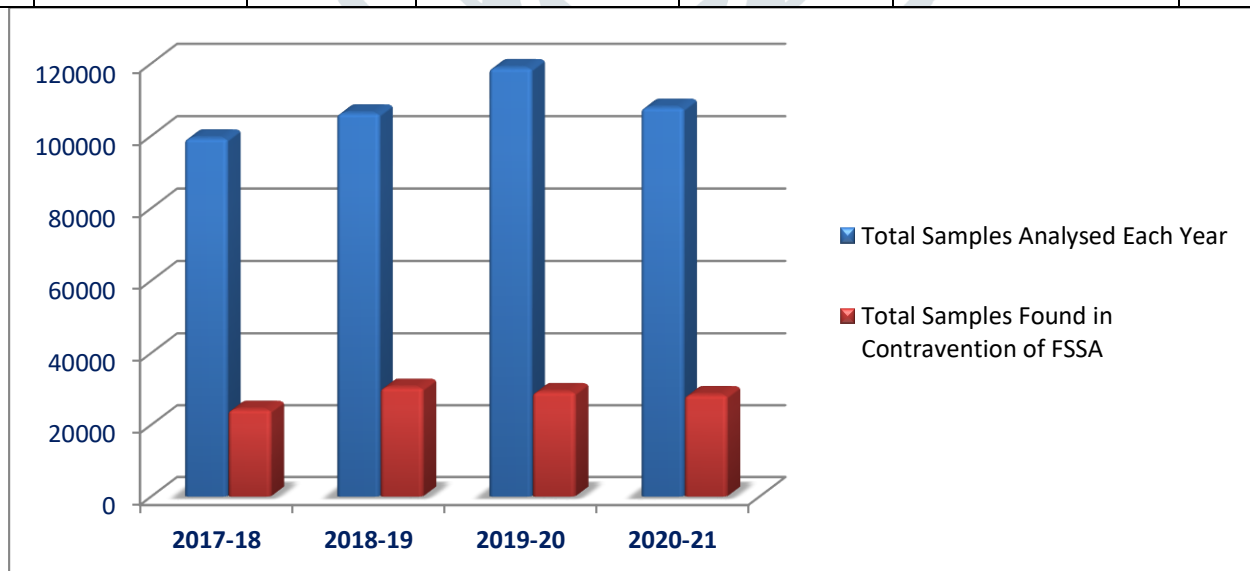
- 1) **Shift from multi law and multi department approach to single law and single department approach:** A single autonomous statutory body was created to govern the food safety laws in India namely Food Safety and Standards Authority of India (FSSAI) in year 2008. This marked a shift from a multi-level and multi departmental control to a single line of control.
- 2) **Gradual shift from regulatory to self compliance regime:** The FSSA focused on self-compliance rather than a pure regulatory regime which distinguishes it from repealed PFA Act. The PFA used to be penal in nature while as FSSA is preventive in nature. The aim and objective of FSSA is to ensure food safety through preventive as well as regulatory measures. The FSSA stresses on compliance to Food Safety Management System³⁹ in the food manufacturing units which depicts its strong inclination towards preventive measures.
- 3) **Gradual shift from solely criminal liability to mixed liability:** The FSSA provides for both civil and criminal liability. For contraventions likely to cause death and injury the punishment in terms of imprisonment have been provided and for minor contraventions penalty in terms of fine has been provided.

The scope of FSSA is wider as the Act, governs several aspects of food such as Licensing and Registration of Food Business Operators (FBO's), Packaging and Labeling of food products and conducting of inspections to keep watch on erring FBO's. The FSSA also aims to raise the level of awareness regarding food safety with the object to reduce the chances of food adulteration. The FSSA is a benevolent piece of legislation with the goal to ensure the safety of food to consumers. Still, how so ever well worded an enactment would be much depends on the effective implementation at ground level. The success of legislation is always judged on the yard stick of the objects it achieves. In order to measure the efficacy of FSSA on ground the statistics published by FSSAI every year acts as a reality check. To answer the question whether the Act, has curbed the menace of food contamination in real sense, the analysis of the FSSAI reports cannot be ignored. The perusal of the statistic published by FSSAI depicts the gloomy picture. The percentage of food adulteration has increased from 12.8% in the year 2011-12 to 26% in the year 2020-21⁴⁰.

³⁹ Food Safety Management System" means the adoption of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by regulation, for the food business;

⁴⁰ Dr. Charu Grover, "Review Food Safety Standards", *Telangana Today*, May, 21, 2021. Also available at: [Review food safety standards \(telanganatoday.com\)](https://www.telanganatoday.com) (last visited on Nov. 8, 2022).

Year	Total Samples Analyzed	Samples Found in Contravention of FSSA				Percentage
		Unsafe	Substandard	Labeling/ Misd/ Misc	Total Samples Contravening	
2011-12	64593				8247	12.76
2012-13	69949				10380	14.83
2013-14	72200				13571	18.7
2014-15	75282				14716	19.54
2015-16	72499				16133	22.25
2016-17	78340				18325	23.39
2017-18	99353				24262	24.41
2018-19	106259	3900	16870	9645	30415	28.62
2019-20	118775	4526	15671	8995	29192	24.57
2020-21	107829	5220	13394	9733	28347	26.28
TOTAL	865079				193588	22.37



The retrieved statistics would be better presented in tabulated form:

Total number of contraventions of Food Safety and Standards Act, 2006 in past 10 years.

Source: FSSAI Annual Reports from year 2011-21.

* Prior to 2018 the FSSAI published the combined figures of contraventions but from 2018 the FSSAI provides the separate figures for unsafe/substandard and labeling contraventions.

From the perusal of above data it is clearly visible that the cases of adulteration are on rise however the frequent inspections and stringent testing by the FSSAI is also commendable. More the samples tested more comprehensible is the existing state of adulteration and contamination. The average percentage of the contravention of food safety laws in the past ten years remains to be more than 22 percent. The number could have been more had there been more frequent testing and analysis of food products. As on 31-10-2021 a total of 926793 FBOs were having active central and state licenses and 3898726 FBOs were registered with FSSAI. In total 4825519 FBOs were regulated by FSSAI.

From the years 2011-2021, 865079 samples were lifted and tested; meaning thereby, the probability of a FBO to be inspected by Food Safety Officer (FSO) remains to be less than 0.17%. Lesser the chances of inspection more are the opportunities for the FBO to violate the Food Safety laws with impunity. However, the Food Safety authorities cannot be solely blamed for that matter. The lack of requisite manpower in the department has been the main cause for the growing adulteration. At the grass root level in each district maximum of two Food Safety Officers (FSOs) are available to monitor the compliance of FSSA among tens of thousands of registered and licensed FBOs. Further, in addition to the duties of monitoring compliance by FBOs, FSOs have also to issue new licenses and registrations, renew expired licenses and registrations. FSO's have also to represent the department in the adjudication before the courts. Lastly, they also have to conduct seminars and awareness programs within their jurisdictions. Owing to the huge work load the officers are not in position to do justice with their job. Thus, proper manpower in the food safety departments is the need of hour.

Conclusion:

Right to safe food must be identified and acknowledged as an independent right than an appendage of right to health. India has perhaps marched past a stage where the right to safe food deserves a priority. Effective judicial intervention will show case and highlight the necessity of having right o safe food. International Organizations have played a pivotal role in shaping the domestic legislations relating to the food safety laws particularly CAC. Mechanism of food safety laws viz: IPC and PFA were fraught with defects. Endeavour was made to cure these defects by enactment of FSSA which is a propitious piece of legislation with high aims and goals. FSSA focuses on prevention of production of unsafe and contaminated food. The legislation can prove much beneficial to the society owing to its focus on the prevention rather than on punishment. The FSSA stresses on self regulatory mechanism which FBOs are bound to oblige. FBOs on the other hand take advantage of the precarious condition of the consumer and sell the adulterated and contaminated food products. Responsibility rests on the state to maintain a

healthy balance between the rights of consumers to have a safe food and FBOs to carry on their business. It is the bounden duty of the government to ensure that the food products even the cheaper ones should not pose threat to health of consumers. The state must ensure both availability as well as the safety of food. For that matter effective implementation of the legislations like FSSA is condition precedent. Effective implementation depends on the availability of adequate Food Safety Officers to keep vigil on FBO's violating food safety laws. Further, sensitizing the common masses regarding the simple tests to detect the adulteration and means to approach the FSOs can also prove beneficial in the long run.

Suggestion

Till date protection of the Right to Safe Food has remained a corollary of the Right to Health. Availability of safe food in the markets will ipso facto improve the parameters of health among the people. However, keeping in view the direct and adverse impact which the unsafe food poses to the human health, it is suggested that Right to Safe Food may be declared as an independent fundamental right rather than being an offshoot of Right to Health.

