

## RIGHTS TO GET UNADULTERATED FOOD LEGAL FRAMEWORK IN INDIA

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### **Abstract:**

The right to unadulterated food is an essential component of the right to life under Article 21 of the Indian Constitution, reflecting the increasing significance of food safety in public health jurisprudence. This dissertation critically examines the legal framework surrounding the right to safe and unadulterated food in India, focusing on constitutional provisions, statutory enactments such as the Food Safety and Standards Act, 2006, and the role of judicial interpretation in enforcing consumer protection. The study highlights the growing concern over food adulteration and its multifaceted legal, health, and ethical implications. Through doctrinal analysis, it evaluates the effectiveness of regulatory bodies such as the Food Safety and Standards Authority of India (FSSAI), and assesses the impact of enforcement mechanisms and penalties prescribed under Indian food laws. Comparative insights and case laws further underscore the gaps between legal provisions and their implementation. The research concludes with recommendations to strengthen the regulatory landscape and enhance consumer awareness to realize the right to unadulterated food as a fundamental human right.

**Keywords:** Right to Unadulterated Food; Article 21; Food Safety and Standards Act, 2006; FSSAI; Consumer Protection; Public Health; Constitutional Rights; Food Adulteration; Legal Framework; Judicial Interpretation; Regulatory Mechanism; Penal Provisions; Right to Life; Food Safety Regulations; Human Rights.

### **Methodology:**

This dissertation adopts a **doctrinal research methodology**, focusing on a qualitative analysis of constitutional provisions, statutory laws, judicial decisions, and government regulations relevant to food safety and adulteration in India. Primary sources include the Constitution of India, the Food Safety and Standards Act, 2006, and other legislative texts, while secondary sources comprise academic commentaries, journal articles, government reports, and case law analysis. The study also incorporates interpretative methods to analyse the evolution of judicial responses in safeguarding the right to safe food. Emphasis is placed on the role of enforcement agencies and the legal challenges in ensuring effective food regulation and consumer protection.

### **Literature Review:**

The issue of food adulteration and the corresponding legal response has received growing attention in legal scholarship and public discourse. Several studies highlight that while India has a comprehensive legal framework to address food safety primarily through the Food Safety and Standards Act, 2006 enforcement remains a significant challenge. The Constitution, particularly Article 21, has been expansively interpreted by courts to include the right to health and safe food. Literature further emphasizes the regulatory role of FSSAI and the increasing criminalization of food adulteration under Indian law. Comparative works explore international food safety standards and how India aligns or diverges from such norms. Despite these

developments, academic and judicial reviews stress the need for stronger implementation, stricter penal mechanisms, and heightened public awareness to actualize the right to unadulterated food in both urban and rural contexts.

### Understanding the Concept:

Although the Indian Constitution does not explicitly recognize the right to food, the Judiciary has interpreted it as an integral part of the fundamental rights by adopting a broad and progressive understanding of Articles 21, 39, 43, and 47. Through judicial interpretation, the courts have established that the right to food is necessary for ensuring the right to life with dignity.

Among all fundamental rights, the right to life holds the highest significance, serving as the foundation upon which all other rights are built. Without the right to life, other rights would be meaningless, as they rely on the very existence of life to be exercised. Human rights, by their nature, can only be applied to living individuals, making the right to life a primary and indispensable right. Had Article 21 been restricted to its narrow, original meaning, the entire framework of Fundamental Rights would have lacked substance and relevance. This section explores how the Supreme Court of India has interpreted and implemented the right to life in a broader context, thereby encompassing necessary elements like the right to food.

### Right to Food – a Fundamental Right:

In the proceedings referenced above, the Commission has emphasized that the Right to Food is a necessary component of living with dignity. It asserted that Article 21 of the Indian Constitution – which protects the fundamental right to life and personal liberty – must be interpreted in conjunction with Articles 39(a) and 47 to fully grasp the State's responsibilities in ensuring the practical realization of this right.

Article 39(a), one of the Directive Principles of State Policy that guide the nation's governance, mandates that the State must structure its policies to guarantee every citizen access to an adequate means of livelihood. Similarly, Article 47 outlines the State's obligation to enhance the nutritional standards and living conditions of its people, identifying these goals as key duties. Taken together, these constitutional provisions imply that the Right to Food is not only fundamental but also enforceable, supported by the constitutional remedy outlined in Article 32. This effectively elevates the Right to Food to a justiciable right under the broader umbrella of the right to life.<sup>328</sup>

Article 21 of the Indian Constitution asserts that access to nutritious food is necessary for living a life of dignity, extending beyond the mere right to life. This right includes having a balanced diet and adequate nutrition, which are critical for combating hunger, undernutrition, malnourishment, and foodborne diseases. However, in the modern context, merely having access to food is not sufficient – it must also be pure and free from adulteration. Consuming adulterated food infringes upon an individual's fundamental rights. In such cases, the Constitution offers a safeguard: the right to approach the Supreme Court to restore any violated fundamental right is itself enshrined as a fundamental right under Article 32. This makes Article 32 a cornerstone of the Constitution, providing the legal means to enforce Article 21, which includes the right to food.

Those living in chronic poverty and hunger often experience long-term malnutrition. Even when their deaths cannot be directly attributed to starvation in medical terms, the underlying cause is often a prolonged state of nutritional deprivation. This leaves individuals more vulnerable to otherwise treatable conditions like malaria or diarrhea. The Commission found

<sup>328</sup> Mehak Sharma, A Critical Analysis of Food Adulteration in India, IJLMH (2024)

this reality deeply troubling, especially given that warehouses under the Food Corporation of India were overflowing with grain during such times of distress.

Supporting the stance of Dr. Amrita Rangasami, Director of the Centre for the Study of Administration of Relief, the Commission emphasized that using death as the sole evidence of starvation is both flawed and inhumane. This outdated approach must be abandoned. The Commission also noted that this issue raises significant policy concerns regarding the obligations of the State. The right to food must include access to nutrition at adequate levels, and the relief provided in times of distress must meet these standards to make sure the right is genuinely fulfilled rather than remaining a theoretical promise.<sup>329</sup>

The Commission proposed that a persistent state of hardship should be recognized as a legitimate indicator of starvation. Furthermore, it supported the petitioner's call for a transformative shift in government policies and relief frameworks. This shift should move away from treating aid as a charitable act and toward recognizing it as a fundamental right of every citizen. The Government of India's current disaster relief policies tend to view calamities in short-term terms, offering limited support. In contrast, a human rights-based approach would treat recipients of food aid not as passive beneficiaries but as rightful claimants. From this viewpoint, the presence of hunger and hardship threatening starvation should be treated as a violation, warranting accountability from the State. Lastly, the Commission affirmed that Article 32 can be invoked not only by individuals but also by groups, thereby strengthening collective rights enforcement.<sup>330</sup>

Today, the right to food is considered a fundamental right in India, and its enforcement is overseen by the Supreme Court. This was not

always the case prior to the landmark case of PUCI v. UOI (2001). When the Constitution was being drafted, on the advice of BN Rau, the provisions concerning socioeconomic justice were separated from those related to fundamental rights. Fundamental rights were included in Part III of the Constitution, which allowed them to be legally enforced in court, although the DPSPs were placed in Part IV and explicitly stated as non-justiciable. The DPSPs were designed as aspirational goals for policymakers to gradually achieve without judicial intervention.

However, over time, the distinction among Parts III and IV has become less rigid. Starting in the early 1980s, the Supreme Court began expanding its role in India's democracy, introducing both procedural and substantive innovations. This allowed the Court to hear a broader range of cases, including those related to socioeconomic rights, and to monitor the government's ongoing compliance with these rights. A significant case in this evolution was Francis Coralie Mullin v. Union Territory of Delhi (1981), in which the Court ruled that Article 21, which guarantees the right to life, also protects a broader "right to live with dignity." This interpretation has since been extended to encompass various socioeconomic rights, including the right to education, housing, and healthcare.

In the landmark case of Kesavananda Bharati v. State of Kerala<sup>331</sup>, the larger Bench of the Court discussed the concept of the "basic structure" of the Constitution, which cannot be altered. In this case, Justice Mathew emphasized that the Constitution's primary goal was to promote justice – both social and economic – along with liberty and equality. The means to achieve these objectives, he noted, are outlined in Parts III and IV of the Constitution. He also observed that freedom from starvation is as crucial as the right to life, reinforcing the idea that access to food and basic needs is integral to living with dignity.

<sup>329</sup> V.J. Akshmi, Food Adulteration, IJLR (2016)

<sup>330</sup> <https://www.yumpu.com/en/document/view/35921571/national-human-rights-commission-sardar-patel->

<sup>331</sup> 1973 4 SCC 22

In the case of *Kishen Pattnayak vs. State of Orissa*<sup>332</sup>, the petitioner sent a letter to the Supreme Court highlighting the extreme poverty in Kalahandi, Orissa, where starvation had claimed many lives and people were even selling their children. The petitioner requested that the State Government be directed to take immediate action to improve the dire conditions in the region. This case was the first to specifically address starvation and the lack of food in India.

In its judgment, the Supreme Court adopted a pro-government stance, issuing directives to address the starvation issue through broader, long-term measures. These included implementing irrigation projects to combat drought, ensuring fair prices for paddy, and establishing a Natural Calamities Committee. However, none of these measures directly addressed the immediate needs of the petitioners, namely preventing deaths from hunger. Furthermore, the Court did not explicitly recognize the right to food in the context of the starvation crisis.

The Court's involvement in adjudicating socio-economic rights has been criticized for "judicial overreach," with opponents arguing that this infringes on the separation of powers, as it encroaches on the legislature's and executive's policy-making domain (Gauri, 2009). However, it is important to note that recognizing and protecting the right to food is within the scope of the Constitution and falls under judicial review. India's constitutional framework for protecting the right to food provides valuable insights, showing that judicial enforcement of socio-economic rights can be both legitimate and effective within constitutional limits (McHugh, 2003). Justice Bhagwati defended judicial activism, stating that the judiciary's role in law-making is a vital part of the judicial process. Courts, in this regard, are safeguarding fundamental rights as outlined in the Indian Constitution.

The critical question, therefore, is not whether judicial review of socio-economic rights is appropriate, but rather how it should be applied and to what extent. Socio-economic rights are best protected in a legal system with a "weak form" of judicial review, which allows space for the legislature and executive to respond to and adjust constitutional rulings. This approach helps bridge the gap among democratic governance and constitutionalism. Tushnet suggests that countries like India, Ireland, and South Africa have successfully enforced socio-economic rights using weak forms of judicial review, enabling strong substantive protections. India follows a "conditional social rights" approach, which emphasizes the implementation of state measures rather than the nature of the measures themselves.<sup>333</sup>

In cases involving socio-economic rights, a more intense form of judicial review is used, focusing on the practical enforcement of these rights through innovative remedies. This "remedy-centric" approach extends beyond simply declaring rights and instead focuses on their active implementation. The Court's approach has involved engaging local bodies, women's self-help groups, and citizens, creating a "triad model" of socio-economic rights adjudication, where the interaction of the courts, local bodies, and citizens ensures the realization of rights.

In the case *Re: Public Health- Protect the Present and Safeguard the Future from Food Adulteration v. UOI*<sup>334</sup>, the Court issued a comprehensive set of interim directives to address the pressing issue of food adulteration: Strengthened Enforcement of the Food Safety and Standards Act, 2006: The Court instructed both the Central and State governments to take proactive measures to make sure that the provisions of the Food Safety and Standards Act are effectively implemented.

Identification of High-Risk Areas: State Food Safety Authorities (SFSA) were tasked with

<sup>332</sup> 1989 AIR 677

<sup>333</sup> V.Lakshmi, Food Adulteration, IJSI (2016)

<sup>334</sup> Suo Moto Future from Food Adulteration v. UOI (2024)

identifying regions that are particularly vulnerable to food adulteration and conducting routine sampling to monitor the quality of food products in those areas.

**Establishment of Adequately Equipped Testing Laboratories:** The Court emphasized the need to make sure that food testing laboratories are properly equipped with the necessary infrastructure and skilled personnel to carry out food safety testing effectively.

**Regular Sampling and Testing:** The Court highlighted the importance of conducting frequent sampling of food items across various levels – state, district, urban, and rural – to make sure compliance with food safety standards.

**Formation of Review Committees:** State and District-Level Committees were to be formed, led by senior officials, to supervise and review the actions taken to combat food adulteration.

**Awareness Campaigns:** A directive was issued to launch extensive public awareness campaigns using various media outlets to educate people about the dangers posed by food adulteration.

**Monitoring Compliance:** A complaint mechanism was to be established to track compliance and address any unethical practices by food safety authorities and officers.<sup>335</sup>

**Implementation of Government Initiatives:** The Court called for the effective implementation of government programs like "Sudh ke Liye Yudh" aimed at tackling food adulteration.

Additionally, the Court instructed the authorities to submit monthly reports detailing their efforts, including sampling activities and measures to reduce food adulteration. The case is scheduled for further hearings on July 30, with the Court seeking input from senior advocates from Jaipur and Jodhpur to provide expert guidance on the matter.

### Legislation Governing Food Adulteration in India:

Several laws have been enacted in India post-independence to regulate and prevent food adulteration, with the Prevention of Food Adulteration Act of 1955 being the primary legislation, alongside several supplementary laws. To gain a full understanding of food adulteration legislation in India, it's crucial to examine all these laws in detail, along with the various orders and rules that have been introduced to support the main legislation. Here's an overview of key legal provisions:

**Indian Penal Code, 1860:** Sections 272 and 273 address food adulteration. These sections specify that anyone who adulterates food or drink, rendering it harmful or unfit for consumption, with the intent to sell it or knowing that it will likely be sold as food or drink, shall face imprisonment for up to six months, a fine up to one thousand rupees, or both. However, under FSS Act, the penalty for selling misbranded or sub-standard food has been significantly increased, with fines ranging from Rs. 3,00,000 to Rs. 5,00,000. Moreover, if unsafe food causes death, the punishment is life imprisonment along with a fine of Rs. 10,00,000, although unsafe food resulting in serious injury or life-threatening situations can lead to imprisonment for up to six years and a fine of Rs. 5,00,000.

In consequence to the Judgement passed by the Supreme Court in *Swami AchyutanandTirth&Ors. v. UOI*<sup>336</sup> The Ministry of Home Affairs tasked the Law Commission of India with reviewing and recommending amendments to Section 272 (IPC). In its report, the Law Commission provided a detailed analysis of the current food safety laws in India, highlighting how these laws have evolved in response to the growing need for stricter food regulations, although also considering international best practices. The Commission proposed changes to Section 272, emphasizing the inclusion of significant compensation

<sup>335</sup> Chatterjee, B. & Karmakar, K. A. *Food Security in India*. (Regal Publications, 2012)

<sup>336</sup> WRIT PETITION (C) NO. 159 OF 2012

provisions for victims affected by food adulteration.

#### **Prevention Of Food Adulteration Act 1955:**

The Prevention of Food Adulteration Act, one of the primary laws governing food safety, was amended in 1964, 1976, and 1986. Its primary aim is to protect consumers from adulterated or contaminated food products that pose significant health risks. In India, certain suppliers involved in food distribution engage in corrupt practices, often replacing pure food products with inferior or adulterated alternatives. These offenders are penalized under the Prevention of Food Adulteration Act of 1955, which seeks to prevent the contamination of food products. The Act is applicable nationwide and provides a comprehensive definition of food adulteration. It also sets out penalties for vendors who violate its provisions. Here are some key penalties under the Act:

First-time violators face imprisonment for a minimum of six months and a maximum of one year, along with a fine of up to Rs. 2,000.

Repeat offenders may face up to six years of imprisonment and the cancellation of their business license.

If adulterated food causes harm to a consumer's health, the vendor may be punished under Section 320.

To monitor and address food adulteration, both the central and state governments can appoint food inspectors, who act as government representatives and are considered public servants under Section 21. These inspectors are responsible for collecting food samples from vendors and sending them for laboratory analysis. If adulteration is detected, the inspector can order the suspension of the food product's manufacturing and sale.

The Act also outlines the central government's role in ensuring its implementation. This includes regular inspections, receiving reports from state governments, and organizing awareness programs for consumers. The Prevention of Food Adulteration Act addresses

various aspects, like food standards, procedures for sampling and analysis, powers of authorized officers, and penalties related to food safety.

#### **The Food Products Order 1955:**

The Fruit Products Order of 1955 was established under Section 3 of the Necessary Commodities Act of 1955, with the goal of ensuring hygienic conditions in the manufacturing of fruit and vegetable products. This order mandates that fruit products must be produced in clean facilities with proper sanitation practices to make sure high-quality standards. It also requires a certification mark on the packaging of these products, which assures consumers that the item is hygienic and meets quality standards.

The order stipulates that all manufacturers of fruit and vegetable products must obtain a license. This certification mark is applied to a wide range of processed fruit products in India, including items like pickles, jams, beverages, and fruit extracts. To obtain a license under this order, manufacturers must meet certain requirements, including maintaining personal hygiene, ensuring clean premises, providing potable water, using efficient machinery and equipment, having quality control measures in place, and employing qualified technical staff.

#### **Vegetable Oil Products (Control) Order 1947:**

Adulteration of oil has become a growing concern in our nation, as oil is a staple food item used daily by consumers. To address this issue, an order was implemented to make sure the quality of edible oil and to mandate that it be refined before consumption. As per this order, all producers and dealers are required to adhere to specific guidelines regarding the sale, storage, and distribution of vegetable oil products. They must also maintain detailed records related to these activities. The term "controller" refers to an officer appointed by the central government, who serves as the primary authority under this law. If the controller finds that any oil products are adulterated, they have

the authority to order the manufacturer or dealer to halt the sale, storage, and distribution of those oil products.

#### **The Meat Food Products Order 1973:**

The regulations governing meat food products are outlined in the Meat Food Products Order of 1973, which was established to regulate the production and sale of meat products. This order mandates that all producers or manufacturers obtain a license to operate. Its primary goal is to make sure that meat processing facilities maintain cleanliness and adhere to sanitary standards. Additionally, the order emphasizes the importance of quality control throughout all stages of meat product production. Given the perishable nature of meat and the potential for diseases, like bird flu, to be transmitted from animals to humans, the order requires that all manufacturers involved in the production, sale, and packaging of meat products hold a valid license for each of these activities.

#### **Necessary Commodities Act 1955:**

This Act, also known as a public interest law, was enacted to promote public welfare. It focuses on regulating the production, supply, distribution, and trade of certain necessary commodities. Recognized as one of the most significant laws for any nation, the Act was introduced after World War II when India faced a shortage of necessary food products and other commodities. In society, some unscrupulous dealers would create artificial shortages of necessary goods to make illegal profits, jeopardizing the security of food supplies. To combat such practices and make sure the proper distribution of commodities, this Act was passed. It grants the government authority over the cultivation, production, storage, distribution, and sale of necessary goods, thereby regulating the supply and delivery of these critical items.

#### **Legal Metrology Act, 2009:**

The Act was established to enforce standards for weights and measures, regulating trade and

commerce involving goods that are sold or distributed based on weights, measures, or numbers.

The legal framework of the Act ensures public confidence by guaranteeing the security and accuracy of weights and measurements.

The Act mandates that commodities be manufactured, packed, sold, or imported as per prescribed guidelines, with penalties for non-compliance with the regulations set forth in the Act.

The Act also led to the creation of the Legal Metrology (Packaged Commodities) Rules, 2011, which regulate pre-packaged goods in India, including rules for labeling.

#### **FOOD STANDARDS AND SAFETY ACT 2006:**

The Food Safety and Standards Act, enacted in 2006, applies throughout India. The primary purpose of this legislation is to consolidate food-related laws and establish the Food Safety and Standards Authority of India. The Act aims to create science-based standards for food items, regulating their production, storage, distribution, sale, and import, with the goal of ensuring the availability of safe and wholesome food for human consumption.

To guarantee the safety and healthiness of food, the Act emphasizes the need for a proper FSMS. As per Section 3(s), the FSMS is defined as the implementation of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Points, along with other practices specified by regulations for food businesses.

Section 32 of the Act outlines the procedure for issuing improvement notices to FBOs who fail to comply with the safety standards. The process begins when a Designated Officer identifies non-compliance. The officer may issue an improvement notice detailing the areas of failure and the corrective actions required. The notice specifies a deadline for the FBO to comply. If the FBO does not address the issues within the given time, further actions can be

taken, including suspending or canceling the FBO's license or initiating legal action.

Section 32(4) provides an appeals process for individuals dissatisfied with actions taken under the Act. If an FBO disagrees with an improvement notice, a refusal to issue a certificate of improvement, or the suspension or revocation of their license, they can appeal to the Commissioner of Food Safety. The Commissioner's decision on such appeals is final.

Section 34 addresses emergency actions in cases of imminent public health risks because of food safety violations. It allows a Designated Officer to issue an emergency prohibition notice to an FBO, ordering them to immediately halt certain activities if they pose a threat to public health.

Subsection (2) stipulates that if FBO does not comply with the emergency prohibition notice, the Designated Officer can request the Commissioner of Food Safety to issue an emergency prohibition order. Once this order is issued, it legally requires the FBO to cease the specified activities immediately.

Subsection (3) mandates that the FBO be notified in writing about the emergency prohibition order. This notice should explain the reasons behind the order and inform the FBO of their right to appeal.

Subsection (4) grants the FBO the right to challenge the emergency prohibition order by appealing to the Commissioner of Food Safety. The Commissioner will review the case and make a final determination. The decision made by the Commissioner is final and must be adhered to by the FBO.

Subsection (5) requires the Designated Officer to maintain a record of all emergency prohibition notices and orders issued. This record must be available for inspection by the Commissioner of Food Safety and other relevant authorities.

### **Penalties:**

#### **Possessing an Adulterant:**

If a person imports or manufactures an adulterant for sale, or stores or sells any adulterant, they can face punishment under the law. If the adulterant does not pose a risk to health, the penalty can be as high as two lakh rupees. However, if the adulterant is harmful to health, the penalty can reach up to ten lakh rupees (Section 57, Food Safety and Standards Act, 2006).

Under Section 272, if an individual adulterates a food or drink item with the intention of selling it and makes it harmful for consumption, they can face imprisonment for up to six months and/or a fine of up to one thousand rupees.

#### **Unsafe food:**

If you sell, manufacture, store, or import unsafe food intended for human consumption, you can face legal consequences. In cases where the unsafe food leads to someone's death, the penalty includes a minimum of seven years of imprisonment, which can extend to life imprisonment, along with a fine of at least ten lakh rupees (Section 59).

**Sub-standard food:** The law imposes penalties on individuals who sell, manufacture, store, or import sub-standard food for human consumption. The fine for such offenses can be as high as five lakh rupees (Section 51).

**Misbranded food:** If a person sells, manufactures, stores, or imports misbranded food for consumption, they can face a penalty of up to three lakh rupees (Section 52 and Section 54).

**Food containing extraneous matter:** The law punishes individuals who sell, manufacture, store, or import food that contains foreign matter, with fines of up to one lakh rupees.<sup>337</sup>

<sup>337</sup> Section 54, Food Safety and Standards Act, 2006

### Section 65: Compensation in case injury of death of consumer:

(1) In addition to other provisions in this chapter, if any individual, either directly or through another person, manufactures, distributes, sells, or imports food that causes injury or death to a consumer, the Adjudicating Officer or the court has the authority to order compensation to be paid to the victim or their legal representative. The compensation amounts are as follows:

A minimum of five lakh rupees in case of death;

Up to three lakh rupees in case of grievous injury;

Up to one lakh rupees for any other form of injury. The compensation must be paid as soon as possible, and in no case later than six months from the incident. Furthermore, in cases of death, an interim relief must be paid to the next of kin within thirty days.

(2) If someone is found guilty of an offense that results in grievous injury or death, the Adjudicating Officer or court may require the offender's name, residence, the offense, and the penalty imposed to be publicly announced at the offender's expense. This announcement may be made in newspapers or by any other means determined by the court. The cost of this publication will be treated as part of the conviction expenses and can be recovered in the same manner as a fine.

Food Safety and Standards (Laboratory and Sampling Analysis) Regulation, 2011: To safeguard the public and prevent food adulteration, food sampling under the Food Safety and Standards (Laboratory and Sampling Analysis) Regulation, 2011 plays a crucial role. This regulation helps determine, when necessary, actions should be taken to prevent the circulation of adulterated foods to the public.

### National Food Security Act, 2013:

The National Food Security Act, 2013, is a significant legislative initiative by the Government of India aimed at ensuring food

security and nutrition for nearly 67% of its population, which amounts to approximately 1.2 billion people. This ambitious effort seeks to protect over 70 million Indians from the risk of hunger. More than six decades after gaining independence, India has taken a major step by guaranteeing its citizens access to food, which is considered the most fundamental human need. By enacting the Right to Food law, India is also moving toward fulfilling its commitment to one of the Universal Human Rights.

The NFSA, aims to provide food and nutritional security across the human life cycle. It ensures that people have access to sufficient, nutritious food at affordable prices to live a life of dignity. This act is regarded as one of the key achievements of the UPA-II government, alongside the Mahatma Gandhi National Rural Employment Guarantee Act, 2005, which was enacted during the UPA-I tenure. For the UPA government, the implementation of laws that guarantee food and employment for the rural and urban poor fulfills their election promises and their commitment to addressing the needs of the marginalized sections of society.

Under the provisions of NFSA, individuals from priority households are entitled to receive five kilograms of food grains per person per month at subsidized rates. Households covered under the Antyodaya Anna Yojana are entitled to 35 kilograms of food grains per month at specified rates. This scheme will benefit up to 75% of the rural population and 50% of the urban population. Special provisions are also made for pregnant and lactating women, as well as for every child up to the age of fourteen, ensuring that they receive guaranteed access to food.<sup>338</sup>

Chapter III of the National Food Security Act ensures that if the entitled quantities of food grains or meals are not provided to eligible individuals as stipulated in Chapter II, these individuals are entitled to receive a food security allowance from the relevant

<sup>338</sup> <https://www.jlsjournal.in/food-security-in-india-analysis-of-the-national-food-security-act-2013-and-food-security-in-chhattisgarh-by-aditi-avashia/>

government. This allowance must be paid to each person in a timely manner, as specified by the law.

Section 31 of the Act, which includes Schedule III, outlines measures for the revitalization of agriculture in India. These include agrarian reforms aimed at securing the interests of small and marginal farmers, increasing investments in agriculture, ensuring livelihood security for farmers, and preventing unnecessary diversion of land and water from food production. Alongside agricultural revitalization, the Act also includes provisions for improving access to safe drinking water and sanitation, healthcare, nutrition, educational support for adolescent girls, and adequate pensions for senior citizens, persons with disabilities, and single women. Although these provisions are ambitious and outlined in one of the Schedules, they present significant challenges for the government, requiring tough policy decisions and considerable budget allocations. These efforts will be particularly difficult because of the potential international trade implications.

The National Food Security Act is designed to guarantee food availability or food security. Its primary objective is to make sure food and nutritional security by providing people with access to sufficient, nutritious food at affordable prices, thereby enabling them to live with dignity. The Act emphasizes the revitalization of agriculture to improve food security in India. The Constitution's Directive Principles of State Policy have long recognized the importance of agricultural growth, with a specific mandate under Article 48 to modernize agriculture and animal husbandry using scientific methods. The National Food Security Act echoes this mandate, calling for agricultural revitalization to support food security.

However, India's agricultural policies at both the central and state levels are now shaped by the World Trade Organization's Agreement on

Agriculture, which influences how agricultural development is approached in the nation.<sup>339</sup>

The rapid expansion of the corporate sector in agriculture has led to negative outcomes across the nation. Corporatization refers to the process of transforming government-owned organizations to resemble the structure of a publicly owned corporation. In this restructuring, the entity is typically not publicly traded, with the government remaining the sole shareholder.

### **Food Safety and Standard (Food recall Procedure) Regulation, 2017:**

The regulations provide guidance for food manufacturers on the necessary steps to recall food products deemed unsafe for human consumption. From a compliance standpoint, food business operators are required to submit both "pre" and "post" recall reports to the Chief Executive Officer of the FSSAI, detailing the actions taken during the recall process.

The Food Safety and Standards (Food Recall Procedure) Regulation, 2017 establishes the procedures for recalling unsafe food items, aiming to safeguard public health. It requires FBOs to have a recall plan in place, initiate recalls when food safety risks are identified, and handle recalled products appropriately. The regulation also stresses the importance of clear communication during a recall and mandates FBOs to provide follow-up reports and outline corrective actions taken.

### **Key Provisions:**

#### **Recall Plan:**

All FBOs engaged in manufacturing, importing, or wholesaling food products must include a comprehensive recall plan as part of their food safety management system.

#### **Initiating a Recall:**

FBOs are required to initiate a recall process when food safety risks are identified, ensuring

<sup>339</sup> Sachin Kumar, *The WTO and Food Security- Implications for Developing Countries*, Springer, 2016

they adhere to Section 28 of the Food Safety and Standards Act, 2006.

#### FBOs' Responsibility:

The responsibility for executing the recall process extends across the entire food supply chain, from manufacturers to retailers.

#### Recall Communication:

Effective communication is necessary during a recall to make sure affected parties, including consumers and relevant stakeholders, are promptly informed.

#### Food Recovery:

When food is recovered, FBOs must manage it following strict guidelines, which may involve destruction or reprocessing of the products.

#### Post-Recall Actions:

FBOs must provide post-recall reports and carry out follow-up actions to evaluate the success of the recall and prevent recurrence of similar issues.

#### Status Reporting:

FBOs are also obligated to submit periodic updates to the CEO of FSSAI or the Commissioner of Food Safety, detailing the progress of the recall.

#### Consumer Protection:

The regulations focus on safeguarding consumers by ensuring the prompt withdrawal of unsafe food from the market and keeping consumers informed.

#### Applicability:

These regulations apply to food or food products deemed unsafe, as defined by the Food Authority.

#### Consumer Protection Act 2019:

The Consumer Protection Act of 2019 was introduced by the Indian Parliament to address violations of consumer rights, deceptive trade practices, misleading advertisements, and other issues that negatively impact consumers. One of the key motivations behind this

legislation was the rapid growth of online commerce because of technological advancements, which led to a significant increase in the online buying and selling of goods and services.

The primary aim of the Act is to enhance the protection of consumer rights and interests. It establishes Consumer Protection Councils to resolve disputes and make sure that consumers receive fair compensation when their rights are violated. To make sure swift and efficient resolution of consumer grievances, the Act incorporates mechanisms for alternative dispute resolution. Furthermore, it emphasizes consumer awareness by promoting education regarding consumer rights, responsibilities, and available grievance redressal methods.

Regarding food safety, the Consumer Protection Act, 2019, enforces strict penalties against those involved in the manufacture, storage, sale, distribution, or importation of adulterated or misbranded food products. The legislation also grants consumers the legal right to lodge complaints and pursue remedies if they suffer harm because of faulty goods or substandard services. By incorporating and strengthening the provisions laid out in earlier legislations, particularly the Food Safety and Standards Act of 2006, this Act creates an all-encompassing framework aimed at safeguarding consumer interests and ensuring food safety across the nation.

#### Key Provisions Regarding Food Adulteration:

##### Penalties for Adulteration:

The Act stipulates various penalties for offenses involving adulterated or misbranded food products, with punishments like fines or imprisonment based on the seriousness of the violation. For instance, misbranding may result in a fine of up to ₹3 lakh, although providing false assurances regarding food products can lead to penalties of up to ₹10 lakh.

##### Right to Safety:

The legislation upholds the "Right to Safety," ensuring consumers are protected from

hazardous goods and services, including contaminated or adulterated food. It also allows consumers to pursue legal remedies when their safety is jeopardized.

#### Redressal Systems:

To handle consumer complaints and disputes effectively, the Act sets up a three-tier redressal framework comprising District Consumer Commissions, State Consumer Commissions, and the National Consumer Commission.

#### Filing Complaints:

Consumers can report issues related to adulterated food through the FSSAI helpline or the Food Safety Connect mobile application. These reports are processed and investigated in accordance with the Food Safety Act, including its corresponding rules and regulations.

#### Role of FSSAI:

The FSSAI, which was established under the Food Safety and Standards Act, 2006, serves as the central body overseeing food safety regulations. It has unified several previous legislations, including the Prevention of Food Adulteration Act of 1954, under a single regulatory framework.

#### Product Liability:

The Act introduces product liability provisions, holding producers accountable for flaws or defects in their goods, including food items, that cause harm to consumers.

#### Challenges in Maintaining Food Safety:

##### Globalized Food Chains:

With international trade expanding, food supply chains have grown longer and more intricate, making it difficult to trace the origin and maintain the safety of food throughout the production and distribution process. Contaminated food can easily move across countries, complicating regulation and control efforts.<sup>340</sup>

#### Climate Change Impact:

Shifts in climate patterns can lead to the spread of foodborne illnesses and pests. Additionally, extreme weather events may disrupt agricultural production and distribution networks, increasing the likelihood of contamination and posing risks to food safety.

#### Antibiotic Resistance:

Excessive use of antibiotics in farming has contributed to the rise of antimicrobial-resistant pathogens. These bacteria can infiltrate the food chain and cause infections that are hard to treat, presenting serious threats to public health.

#### Resource Constraints:

Enforcing food safety standards requires considerable investment in infrastructure, skilled personnel, and modern technologies. Limited financial and technical resources can hinder effective implementation and oversight of these safety measures.

#### Lack of Training and Awareness:

Ensuring food safety depends heavily on trained personnel who understand proper hygiene and handling practices. However, variations in education levels and literacy among food industry workers can lead to inconsistent adherence to safety standards.

#### Emerging Foodborne Illnesses:

The appearance of new foodborne diseases continues to challenge food safety efforts. Addressing these emerging threats demands ongoing research, innovation, and updates to existing food safety protocols.

#### Steps to Prevent Food Adulteration:

Food Business Operators (FBOs) play a crucial role in curbing food adulteration by implementing regular checks, surveillance measures, and ensuring adherence to compliance norms, including conducting random inspections of food products produced at their facilities. Adopting industry best

<sup>340</sup> Sudha Narayanan, "Food Security in India: The Imperative and Its Challenges", *Asia and the Pacific Policy Studies*, 12 January 2015

practices can significantly help in minimizing the risk of adulteration.

#### Proper Storage Systems:

All food items, including raw materials and by-products used in production, should be stored appropriately. Maintaining the right temperature and routinely inspecting storage conditions are necessary to prevent spoilage and contamination of ingredients.

#### Use of Advanced Technology for Adulteration Detection:

Employing modern technological solutions can help detect adulterants in various food products before they are released into the market. These tools enhance food safety by identifying harmful substances early in the production process.

#### Employee Awareness and Training:

Workers involved in food production must be educated and made aware of the harmful consequences of adulterated food on consumers' health. Sensitizing the workforce creates a more responsible manufacturing environment and promotes safety.

In the Centre for Public Interest Litigation v. UOI<sup>341</sup> case, the Supreme Court examined allegations of adulteration in soft drinks and underscored the need for state governments to actively enforce food safety laws. The Court stressed that regulatory frameworks and standards outlined in the Food Safety Regulations must be effectively implemented, especially through the monitoring of produce like fruits and vegetables. The judgment reaffirmed that under Article 21, citizens are entitled to protection from harmful food, and the government must make sure that food producers strictly comply with the regulations laid out by the Food Authority.

FBOs are legally obligated to make sure that the food they manufacture, store, or distribute is safe for human consumption. To support this, the FSSAI has introduced a range of compliance requirements and stringent penalties to deter

the production and sale of adulterated food. Reducing risks associated with food safety relies heavily on manufacturers consistently following the legal standards and guidelines set forth by FSSAI. However, achieving long-term food safety goals also requires fostering a culture of compliance within food industry organizations, emphasizing accountability and adherence to safety norms at every level.

#### How to Detect Food Adulteration?

Under the initiative known as DART, the FSSAI has approved several simple, quick tests that individuals can perform at home to identify adulteration in food items. These tests rely on physical, chemical, and sensory observations to help detect contamination or the presence of harmful substances in commonly consumed products.

##### Milk and Dairy Products:

To check for detergent in milk, shake the sample - if foam or lather forms, this may indicate adulteration with detergent. To test for starch in milk-based items, boil the sample with water and add a few drops of iodine. If the mixture turns blue, starch is present.

##### Oils and Fats:

Place a sample of coconut oil in a glass container and refrigerate it for 30 minutes. If the oil separates into layers, it may be adulterated; if it solidifies uniformly, it is pure. For other oils, add a small amount of yellow butter; if the mixture turns bright red, it indicates the harmful TOCP is present.

##### Sugar and Sweets:

To test for added sugar in honey, drop a small amount into a glass of water. If it disperses, sugar is likely present. To detect chalk powder in sugar, add the sample to a glass of water - chalk will settle at the bottom.

##### Cereals and Pulses:

Foreign substances like khesari dal, excess bran, and Dhatura seeds can often be identified through close visual inspection. When food

<sup>341</sup> AIR 2014 SCC 49

grains are soaked in water, any artificial coloring will start to bleed. For rice, adding a teaspoon of slaked lime to the soaking water will turn adulterated grains red.

#### Fruits and Vegetables:

To check for harmful dyes, dip a piece of cotton in water and rub it on the surface of vegetables. If malachite green is used to color the vegetables, the cotton will turn green. Similarly, for items like sweet potatoes, rubbing a moistened cotton ball on the surface will reveal the presence of rhodamine B if it picks up color.

These basic tests empower consumers to identify adulterated foods and protect themselves from potential health hazards associated with unsafe food practices.

#### Conclusion:

The right to obtain unadulterated and safe food is an essential component of the broader human right to life and health, as guaranteed under Article 21 of the Indian Constitution. The Indian legal framework, anchored by the Food Safety and Standards Act, 2006, and supported by various other legislations such as the Consumer Protection Act, 2019, and the Indian Penal Code, 1860, provides a robust statutory foundation for combating food adulteration and ensuring food safety. Over the years, judicial interpretations by the Supreme Court and High Courts have progressively recognized the right to safe food as a constitutional entitlement, reinforcing state accountability and proactive governance.

Despite these legal safeguards, the persistent incidence of food adulteration and lax enforcement expose significant implementation gaps. Challenges such as outdated testing infrastructure, inadequate regulatory manpower, and lack of public awareness continue to undermine the efficacy of existing laws. The need for technological advancement in food monitoring, harmonization of food standards with international guidelines, and stronger inter-agency coordination remains critical.

Further, in a globalized and digitalized marketplace, emerging issues such as e-commerce food safety, traceability, and online food delivery chains demand adaptive legal responses. Strengthening the Food Safety and Standards Authority of India (FSSAI), promoting consumer participation, and increasing transparency through digital tools are essential to building a resilient food regulatory regime.

In conclusion, while the legal framework for ensuring the right to unadulterated food in India is comprehensive in scope, its true effectiveness depends on dynamic enforcement, administrative accountability, and continuous legislative evolution. Protecting this right is not just a matter of regulatory compliance it is a public health imperative and a constitutional necessity in a welfare state like India.

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