

FROM FRAGMENTATION TO CONSOLIDATION: EVOLUTION OF FOOD SAFETY LAWS IN INDIA (1954–2006)

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Abstract

The Indian food safety regulation has gone through remarkable change of a disjointed legal framework with a holistic framework in place. The food safety methods were, initially, controlled by the Prevention of Food Adulteration Act, 1954, under which the approach of food safety was mainly reactive, where measures were taken to punish the cases of adulteration instead of setting up of comprehensive food safety provisions. With time, several laws arose and overlaps as well as difficulty in enforcing them arose and caused inconsistencies. The government, after realizing these shortcomings, came up with Food Safety and Standards Act, 2006, that was aimed at integrating the other food related laws into one umbrella and setting up of the Food Safety and Standards Authority of India. The paper reviews how the laws governing food safety in India have changed throughout the years with a focus on the shift in the various legislative systems to a cohesive regulatory framework. It also measures how effective such changes have been to deal with modern food safety issues and safeguard the health of the population in India.

Introduction

Food safety is a paramount issue in the public health regime, which has a direct impact on the health and life-span of the citizens. A large and multinational state such as India has always had to grapple with the problem of safe and unadulterated food as a complicated issue. The Indian legal system in food regulation has traditionally been developed in a piece meal fashion, thus creating a disjointed system that has several overlapping laws and regulators. There was regular inconsistency in standards, poor enforcement systems and confusion between the stakeholders, such as producers, regulators and customers as a result of this fragmentation.

The main act that was used as a guideline to food safety during the early years was the

Prevention of Food Adulteration Act, 1954 whose main aim was to prevent any form of adulteration by punitive measures. Although it was considered as a baseline law, it was rather incomplete in terms of food safety and especially with regards to the present-day food processing, globalization, and technological development. Through the PFA Act, and some other legislators e.g. those defining individual food products, a collection of regulations facilitated duplication and inefficiency in regulation.

The trend toward greater international commerce and the need to adjust to a more integrated legal environment was dictated by the increase in the complexity of the food industry along with the rise in consumer awareness that enforced greater international

trade requirements. This prompted the introduction of Food Safety and Standards Act 2006 that was intended to unify all the other laws and create a single point of reference in India in terms of food safety. The formation of Food Safety and Standards Authority of India was a good measure towards scientific and risk-based regulation.

This paper will examine how a fragmented system came to be an integrated one and the history of the process, legislative changes and the effects of the change to food safety regulation in India.

Main Body

The development of the food safety legislation in India demonstrates the overall change in a regulatory ethos where the narrow sense of control over adulteration was replaced by a global system of food safety, quality control, and health protection of the population. This shift can be explained by analysing the disjointed legal structure, which was in place before 2006, the constraints of the framework and the ultimate change to this system with the Food Safety and Standards Act, 2006.

During the post-independence era, India experienced a lot of difficulties associated with food insecurity, low quality management, and large-scale contamination. The Prevention of Food Adulteration Act, 1954 was passed to deal with these issues, which forms the most important law to govern food safety. The Act also sought to avoid the food adulteration and assure that food products were of some minimum standards of quality. It also made the appointment of public analysts, food inspectors, and laboratories to test food samples. The penalties in case of violation were also drawn under the Act such as fines and imprisonment.

The PFA Act was quite narrow in scope and approach although it was important. It was more concerned about detection and punishment of adulteration, as opposed to prevention of adulteration. The regulatory system was more of reactionary; based on the sample testing and

prosecution of the violations after they had taken place. Additionally, the new problems like food labelling, packaging, hygiene characteristics, and risk evaluation were insufficiently covered in the Act. With the development of the food industry, these gaps could be seen more and more.

Besides the act of PFA, there were various other legislations that included various food control acts. These were Fruit Products Order, 1955; the Meat Food Products Order, 1973; the Vegetable oil products (Control) Order, 1947; the milk and milk products order, 1992. The laws had different ministries and regulatory bodies all working through disjointed their work resulted in no coordination and uniformity. The presence of several laws led to redundancy of jurisdictions, overlapping of responsibilities and inefficiencies in the law.

The discontinuous aspects of legal framework presented a number of obstacles. First, it caused confusion regarding the food businesses operators who were to meet various regulations and get licenses with various authorities. Second, it undermined enforcement because various agencies were not very coordinated and clear on their role. Third, it discouraged the implementation of contemporary food safety practices because the legislations were not in line with the international norms such as those established by Codex Alimentarius Commission. Lastly, it hindered consumer protection because the absence of uniformity in standards and a lack of effective enforcement measures did not have sufficient protection to the populace.

It became increasingly necessary to reform the Indian economy, as liberalization of the Indian economy took place in the 1990s. Expansion of the food processing industry, and increased imports and exports coupled with the emergence of international corporations approached new challenges in dealing with food safety regulations. It was increasingly being realised that the current legal framework was incapable of dealing with such complexities. India, further, had a series of commitments under the

international trading agreements especially the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) of the World Trade Organization that obligated it to embrace the use of science based standards as well as risk assessment methods.

As a solution to these problems, the government started working on the reformation and modernization of food safety laws. In order to assess the current framework and suggest improvements, different committees and expertise boards were formed. Such efforts saw the adoption of Food Safety and Standards Act, 2006 which brought about paradigm shift in the control of food in India.

Food safety and Standards Act 2006 was a comprehensive law that brings several food related laws in a single statute. It abolished various laws that existed and incorporated their stipulations into a single law. According to the Act, the Food Safety and Standards Authority of India was instituted as the central regulatory authority that was to set standards, regulate the manufacturing, storage, distribution, sale and importation of food and food safety in the nation.

A major characteristic of the FSSAI regime is the fact that it focuses more on the use of an approach based on risk and science on food safety. In contrast with the PFA Act, which had a narrow scope on end-product testing, the FSSAI framework pays a lot of attention to prevention (such as hazard analysis and critical control points (HACCP), good manufacturing practices (GMP), and good hygiene practices (GHP)). This movement is part of the worldwide tendency towards preventative regulation, which tries to detect and reduce dangers of all stages of the food chain of distribution.

The other notable point of the FSSAI Act is that it has established a single licensing and registration system to the operators of food business. This will ensure that it is easier to comply with and the regulatory burden on businesses is minimized. It is also good in terms of transparency and accountability as it gives a clear line of enforcement. The Act also entails

accreditation of laboratories, food safety management system recognition and establishment of food safety commissioners in states.

Consumer protection is also enhanced with the introduction of the gaseousness of food labelling, advertising and recall in unsafe food products in the FSSAI framework. It allows the consumers to have knowledge concerning the quality and safety of food products thus gives them the power to make sober decisions. The minor offences are also adjudicated under the Act and the serious violations prosecuted thus achieving a balance in enforcement.

The process of making a fragmented system a consolidated system has however not just been smooth sailing. The FSSAI Act has had challenges like poor infrastructural facilities, lack of qualified and trained staff and disparities in the very implementation by the states. However, the ability of the small and medium enterprises to meet the new standards and requirements has also been of concern. Along with that, the communication between central and state governments can be considered one of the critical aspects to be enhanced.

Nevertheless, the FSSAI Act is the great leap in the system of food safety in India. It makes Indian laws compatible with international laws, improves the efficiency of the regulatory process and makes the protection of the population healthier. The merging of the legislation has minimized duplicity as well as enhanced readability whereas the touch on the precautionary steps has enhanced the management of the risks.

The development of food safety legislation in India, however, indicates an overreaching shift towards modernization, globalization and consumer directed regulation. The replacement of the PFA Act by the FSSAI structure leads to the change of a disjointed and reactive framework by a coherent and aggressive system. The necessity to overcome the emerging challenges, follow the international requirements, and safeguard the health and interests of consumers

has been the driving force behind this change.

Altogether, the discussion of the fragmentation to the consolidation of the Indian food safety laws explains the significance of responsive and adaptive legal structures. Though the FSSAI Act has resolved most of the shortfalls of the previous system, the implementation still requires continuous efforts to improve the capacity, as well as uniform implementation should be observed throughout the nation. It is upon the effective cooperation of the regulators, the industry stakeholders, and consumers that the success of the food safety regime will be realized.

Further study of the regulatory change also shows the role of scientific standard-setting and institutional accountability in the Indian food safety system which is on the rise. In the previous regime that was majorly characterized by the Prevention of food Adulteration Act, 1954, the decision on food standards was also quite inflexible and could not always keep up with technology in food production and processing. The fact that there was no dynamic standard setting mechanism ensured that the regulations were mostly old confirming their inability in responding to new risks that may arise including chemical contamination, genetically modified foods and new food additives. On the contrary, a more open and scientifically motivated approach was introduced by the Food Safety and Standards Authority of India that offered a possibility to revise the standards on the basis of scientific evidence and international best practices on a regular basis.

This trend of being scientifically regulated is especially remarkable in the areas of globalization and international trade. As India became an active player in the international food markets the necessity to adjust domestic standards to the international standards was elicited. Such harmonization can be achieved through FSSAI framework by making Indian regulations meet international regulations established by various organizations like Codex Alimentarius Commission. This conformity does not only increase the credibility of the Indian food

products to international markets, it also makes sure that the imported foodstuffs are subjected to similar safety standards. Therefore, the plurality of the regulatory system has been instrumental in the balancing of the domestic concerns of the population health with the international trade requirements under the Food Safety and Standards Act, 2006.

The other interesting change in the food safety legislation history is the growing importance of traceability and responsibility in the food supply chain. The disunified legal system before the year 2006 had no means of monitoring the flow of food products through production and consumption. This complicated the point(s) of contamination or adulteration, thus impossible to enforce the point. The FSSAI framework fills this gap by providing an option that proposes that the operators of food businesses should keep records of their products and provide traceability of food-related products. This does not only contribute to fast reaction on issues concerning food safety but also increased accountability in the supply channel.

Moreover, the technology in enhancing the robustness of food safety governance has also taken a major role in the unassailable framework. Digital platforms have been embraced by the FSSAI in licensing, registration, inspection, and monitoring of compliance and have made the process to be more efficient and transparent. Paper systems like the Food Licensing System and Registration System (FLRS) and Food Safety Compliance System (FoSCoS) online systems have facilitated fast processes in administration and minimize the system delays. These technological interventions mark a major contrasting shift in terms of difference in the manual and sometimes tedious process that used to be part and parcel of the previous regime.

The development of the food safety legislation has also been coupled by the increased awareness that the stakeholders involvement is crucial. During the regime of the PFA, the regulatory procedures were mostly laxized and

failed to engage the stakeholders in the industries, consumers, and even the scientists. Conversely, the FSSAI model promotes consultation and cooperation by use of advisory committees, professional panels and like-wise public consultations. This consultative practice makes the decisions of the regulators more legitimate and makes the different views be considered when formulating the standards and policies.

In spite of these developments, there are some structural and operational challenges, which still exist. The difference between the enforcement abilities in different states is also one of the most important issues. Though in certain states, there has been an experience of strong infrastructure development and the provision of training of people, there still exists lack of resources and skilled labour in others. Such an unequal enforcement contravenes the scope of similarity in the regulatory framework and generates inequalities in the application of food safety. Also the informal sector which forms a big part of the Indian food industry is generally not controlled by the formal regulatory authorities making it a challenge to monitor and adhere to.

The other area of concern is that the consumer awareness and education should be increased. Although FSSAI Act has provisions on consumer protection, the provision relies on the capability of consumers to perceive and apply the information given to them. Programs like food safety education, labelling, and outreach education to the populace are fundamental to provide a consumer with power and make informed choices. But still, more long term and extensive actions are required in this respect.

Besides, the growing complexity of food supply chains and the appearance of new food technologies also demand the constant adjustment of the legal system. The introduction of online food delivery systems, functional foods, nutraceuticals, and genetically modified organisms are emerging issues in the area of regulation that were not foreseen by the former regime. The FSSAI has made efforts to solve

some of such problems with regulations and guidelines although continuous review and reforms are required to keep up with the technological as well as the market advancement.

Comprehensively, the extra aspects of scientific regulation, technological incorporation, stakeholder engagement, and world orientation are added elements that enhance the importance of the shift in the fragmented to the consolidated food safety regime in India with further implications. These changes indicate dynamism of food safety governance and need of responsive and adaptable legal framework that can effectively respond to the present and forthcoming challenges.

Conclusion

History of food safety laws in India Since the enactment of the Prevention of food adulteration act in 1954, there has been a drastic change in regulatory philosophy and institutional arrangement with the adoption of the Food Safety and Standards Act in 2006. This previous disjointed system with various laws and agencies could not cope with the dynamics of the fast-changing food business. Its reactive and retaliatory strategy did not guarantee wholesome food safety and the overall protection of the people against illnesses.

The introduction of the Food Safety and Standards Act, 2006 was seen as a defining moment since it was an act to unify the various legislations into one, coherent system. With the creation of Food Safety and Standards Authority of India, a centralized, science-based and risk-focused food regulation came into focus. This change has brought about regulatory transparency, less duplication, and congruence of the Indian standards to the global standards.

Nevertheless, the success of this consolidated system will be based on implementation. Issues like infrastructural incompatibility, shortage of trained workforce and disparate implementation within the various states still present barriers in its inherent potential. These problems should be

dealt with in a long-lasting process, which involves capacity building, the integration of technology, and an increased level of coordination between central and state governments.

Essentially, the shift towards fragmentation to consolidation is the attrition that India has shown towards enhancement of food safety governance. As much has been done, it is however necessary to have continuous reforms and adaptive strategies that will guarantee safe, nutritious and high quality food to all citizens.

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