



# HISTORICAL PERSPECTIVE OF FOOD SAFETY LAWS IN INDIA

**-Prabhjot Kumari \***

## **Introduction**

*“This chapter throws light on the historical perspective of the Food Safety legislation in the country. The present study focuses on various legislations which were there prior to the enactment of present Act and now all are combined under a single legislation. The present legislation covers almost every aspect of the safety and standards of the food. The previous laws no doubt played well at that time but with the changing scenario, the amendments are needed in the law. Now, Let us start with the journey of the Food Safety Legislations in the Indian context.”*

The state is the mother of its citizens and it is the duty of the state to take care of its children by using proper measures. It is the duty of the state to look after the standard of living of its citizens and the nutritional standards as well in Order to ascertain the development of the citizens. Because food is the basic necessity so its care should be taken properly by the proper authorities.<sup>2</sup>With the emergence of new techniques, there is novation in the new ideas for adulterating the food also.

The jurists of ancient India also tried their best to lay down the laws relating to keeping a check on the nutritional standards of the food. Manupatra and the Kautilya's Arthashastra are the perfect illustrations for this. In the earlier times, Muhammadan Criminal Law was there to regulate such provisions but with the advent of the British era, the new laws were introduced with some modifications. The first Law Commission which was appointed in the year 1834 under the chairmanship of Lord Macaulay. Sections 272<sup>3</sup> and 273<sup>4</sup> were

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<sup>2</sup>Constitution of India “Article 47 :Duty of the State to raise the level of nutrition and the standard of living and to improve public health. - The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.”

<sup>3</sup>Indian Penal Code, 1860 “Section 272 of : 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.

<sup>4</sup> Indian Penal Code, 1860 “Section 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.”

incorporated under *Indian Penal Code* 1860 as in consequence of the necessity felt for the adequate provisions regarding the prevention of adulteration of the food and drinks.

The legal history of India depicts that prior to independence also there was various state legislation to deal with food adulteration. One of them is *The Bengal Food Act*, 1919 defined adulteration as follows: "An article of food shall be deemed to be 'adulterated' if it has been mixed or packed with any other substance or if any part of it has been extracted so as it either affects injuriously its quality, substance or nature."<sup>5</sup> After independence following were the Acts and Orders passed by the Indian government to check consumer interests and to stop malpractices:

### 2.1 *Prevention of Food Adulteration Act*, 1954

### 2.2 *Fruit Products Order*, 1955

### 2.3 *Solvent Extracted Oil, De-oiled Meal and Edible Flour (Control) Order*, 1967

### 2.4 *MFPO*, 1973

### 2.5 *Vegetable Oil Product Order*, 1947

### 2.6 *The Edible Oils Packaging (Regulation) Order*, 1998

### 2.7 *Milk and Milk Product Amendment Regulations*, 2009

### 2.8 *The Food Safety and Standards Act*, 2006

### 2.9 *Law Commission Report No. 264: The Criminal Law (Amendment) Bill*, 2017 (Provisions dealing with Food Adulteration)

## **2.1 *Prevention of Food Adulteration Act*, 1954**

To maintain the availability of safe food to the consumers is the responsibility of The Ministry of Health and Family Welfare. "*Prevention of Food Adulteration Act*, 1954" was enacted to ensure such availability in the public interest. The very main objective of this legislation was to ensure the proper safety of the food to the consumers and also to prevent fraud or deception which may cause serious threats to one's health. The Act was amended in 1964, 1976 and 1986 with the objective of removing the loopholes and to lay down the punishments more stringent nature and to empower the Consumers and Voluntary Organisations to play a more effective role in its implementation. The subject of the Prevention of Food Adulteration is in the concurrent list of the constitution. However, in general, the enforcement of the Act is done by the State/U.T Governments. The Central Government primarily plays an advisory role in its implementation besides carrying out various statutory functions/duties assigned to it under the various provisions of the Act.<sup>6</sup> Prior to this Act, there was various legislation passed by the provincial government.<sup>7</sup> There was a lack of uniformity and coordination

<sup>5</sup>Gupta, J.P. Commentary on the Prevention of Food Adulteration Act (1976 Bharat Publishing House, Allahabad) 65

<sup>6</sup>[https://archive.india.gov.in/sectors/health\\_family/food\\_prevention.php](https://archive.india.gov.in/sectors/health_family/food_prevention.php) (last accessed on April 15, 2019)

<sup>7</sup> Singh, Jaspal: Handbook of Socio-Economic offences (1993, Pioneer, Delhi) 235; The following are precursor to the Prevention of Food Adulteration Act, 1954:

1. The Assam Pure Food Act, 1919
2. The Bengal Food Adulteration (Amendments) Act of 1925 and 1930.
3. The Bihar and Orissa Prevention of Food Adulteration Act 1919.
4. The Bihar Prevention of Food Adulteration Act 1948.

in these legislations. Suppose two persons committed the same offence, they made liable for the different punishments. The need was felt for uniform legislation, as a consequence of which the Central Advisory Board of Health appointed a committee in 1937. As it was the state subject prior to republican India, so no central legislation was there. But after India became a republic and the constitution was adopted, the adulteration subject was put into the concurrent list<sup>8</sup> of the seventh schedule under Entry 18 upon which both the state as well as the center was given the power to legislate. And this historical background inspired the Indian parliament to legislate a central law for the prevention of food adulteration i.e., *The Prevention of Food Adulteration Act, 1954*.

## 2.2 *Fruit Products Order, 1955*

The *Fruit Products Order, 1955* was formed under the *Essential Commodities Act, 1955*. The main objective of this Act was to manufacture the fruits and vegetable products with due consideration of the maintenance of the sanitary and hygienic conditions of the place of manufacturing. The Order also laid down certain quality standards for the products to be manufactured. As per this Order, it is mandatory to obtain the license under this Order for all the manufacturers of fruits and vegetable products (including non-fruit products like non-fruit vinegar, syrup and sweetened aerated water).

Following are some minimum requirements laid down under this Order for the hygienic and quality standards of food:

- 1.The surroundings and location of the factory
- 2.Hygienic as well as sanitary conditions
- 3.Portability of water
- 4.Installed capacity of the machinery and equipment
- 5.Proper quality control facility and Technical staff
- 6.Product Standards
- 7.There should be some limit on the use of preservatives and other additives

## 2.3 *Solvent Extracted Oil, De-oiled Meal and Edible Flour (Control) Order, 1967*

5. The Bombay Prevention of Adulteration Act 1925 and (Amendment) 1935.

6. The Central Provinces Prevention of Adulteration Act 1919 and its Amendment Act 1928.

7. The Madras Prevention of Adulteration Act 1918 and Amendment Act of 1928 and 1932.

8. The Orissa Prevention of Adulteration & Control of Sale of Food Act 1938.

9. The Punjab Pure Food Act 1929.

10. The United Provinces Prevention of Adulteration Act 1912.

11. The United Province Act, 1916. 12. The United Provinces Act XII of 1932. 13. The v.p Pure Food Act, 1950

8<sup>Constitution of India</sup>“Article 246: Subject matter of laws made by Parliament and by the Legislatures of States(1) Notwithstanding anything in clauses ( 2 ) and ( 3 ), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule (in this Constitution referred to as the Union List)

(2) Notwithstanding anything in clause ( 3 ), Parliament, and, subject to clause ( 1 ), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule (in this Constitution referred to as the Concurrent List)

(4) Parliament has power to make laws with respect to any matter for any part of the territory of India not included (in a State) notwithstanding that such matter is a matter enumerated in the State List.”

The very main objective of this Order was to keep a proper check on the health and safety of the consumer that it should not be affected due to adulterated food. The Order was passed in Order to lay down certain regulations for the control over Oilseed solvent extraction and refining industry.

Salient features of this Order are:

- 1.Licensing of all the firms which are engaged in oilseed solvent extraction or subcontracting of oilseed processing with oilseed extraction firms.
- 2.To regulate the manufacture, storage and the sale of solvent extracted vegetable oils and flours.
- 3.Some specifications were laid down in Order to ascertain the quality standard of solvent extraction products and its by-products.
- 4.Submission of monthly report to the Controller of production, stock, sales, returns and government authority for the search of plant and seizure of stock if warranted.

#### **2.4 Meat Food Products Order (MFPO) 1973**

The meat food products are required to be licensed under this Order. The aim of this Order was to regulate the production and sale of the meat food products by subjecting it to licensing for manufacturing in the interest of public health and safety. There were also some other objectives like:

- sanitary and hygienic conditions
- quality control of the products
- assessment of each stage of production etc.

Under the provisions of this Order, only those manufacturers are included who are involved in the business of packaging, labeling, repackaging and relabeling. Those manufacturers are out of the purview of this Order who use these products for on the spot consumption purposes like hotels, bars, restaurants, eating houses, etc.

#### **2.5 Vegetable Oil Product Order, 1947**

*Vegetable Oil Products (Control) Order, 1947* and *Vegetable Oil Products (Standards of Quality) Order, 1975* has been replaced with a single Order called “*Vegetable Oil Products (Regulation) Order, 1998*”. It was done with the purpose of laying down a proper regulation for the manufacture, distribution, and sale of Vegetable Oil Products. As a result of the Order, there was a huge decline in the overlapping of the jurisdiction of multiple authorities and agencies. The Directorate of Vanaspati, Vegetable Oils and Fats holds the responsibility for implementation of the standards of quality of the vegetable oil product mainly at the manufacturing stage. The provision for the proposal of BIS Certification has been removed. The Order also laid down the quality standards and also there has been some liberty in vegetable oil product prices.

#### **2.6 The Edible Oils Packaging (Regulation) Order, 1998**

This Order was promulgated under the *Essential Commodities Act, 1955* the main objective of which was to make the packing of edible oils at predetermined prices, sold in retail, mandatory with an exception of being exempted by the concerned state government. Its other main objective was to ensure the availability of safety standards and quality of the edible oils.

Salient features of this Order are as follows:

1. Compulsory registration of the packers with the registering authority and to have their own analytical facilities for the samples of edible oils which are to be tested to the satisfaction of the government.
2. Those oils will be allowed only to be packed which conform to the quality standards as specified in the Prevention of Food Adulteration Act, 1954 and the Rules made hereunder.
3. Each container or pack which shows the relevant particulars in Order to avoid the consumer being misled and to ensure the real identity of the packer.
4. The Edible oils packing shall conform to the *Standards of Weights and Measures (Packaged Commodities) Rules, 1977* and the *Prevention of Food Adulteration Act, 1954* and the Rules made hereunder.
5. The power to provide relaxation to the requirements of the packaging Order to meet some special circumstances is provided under the control of the State Governments.

### **2.7 The Milk and Milk Products Order, 1992**

The *Milk and Milk Products Order, 1992* was promulgated under Section 3 of the *Essential Commodities Act, 1955* by the Department of Animal Husbandry, Dairying and Fisheries because in 1991 there was de-licensing of Dairying sector under *Industrial Development & Regulation Act, 1951*. The main objective of this Order was to maintain and enhance the supply of the liquid milk of standardized quality and also to regulate the production, processing, and distribution of milk and milk products. As per this Order, it is mandatory for a person or a dairy plant which handles more than 10,000 liters per day of milk or 500 MT of milk solids per annum, to get registration from the Registering Authority appointed by the Central Government.

### **2.8 The Food Safety and Standards Act, 2006**

The main objective of this Act is to establish single legislation for all the food safety and standards related matters. After the proper research and analysis, this Act intends to create such a mechanism to tackle the food safety and standards related issues. The act also established a regulatory body “The Food Safety and Standards Authority of India” (FSSAI) to develop the food standards and to enforce different provisions, rules, and regulations of the Act.

#### Functions of FSSAI

1. This Act laid down the guidelines for the accreditation of the bodies which are engaged in the providing certificates of food safety management system to the food businesses.
2. The Act also laid down the guidelines for the accreditation of laboratories and for the notification of accredited laboratories.
3. The Act also provided for scientific advice and support to the central and state governments for the framing of rules for food safety and nutrition in the public interest.
4. This Act also provides for the collection and comparison of data on food consumption, incidence, and prevalence of biological risks, contaminants in food and its products, residues of various, recognition of emerging risks and introduction of alert systems.

5.This Act provided for the establishment of a network that would help in providing information to all the people of the society regarding food safety and the related matters.

6.Under this Act, there are also provisions regarding the training programs to those who are or who are planning to get involved in the food business.

7.Also, the Act helps to contribute to the development of the international technical standards for food and sanitation in Order to create a healthy society.

### **2.9 Law Commission Report No. 264: The Criminal Law (Amendment) Bill, 2017 (Provisions dealing with Food Adulteration)**

Following are some recommendations under this Report:

1.The Law Commission of India, in its Report No. 264, has recommended life imprisonment for those convicted of manufacturing and selling adulterated food. It has, in this regard, presented the *Criminal Law (Amendment) Bill, 2017*, proposing to amend Sections 272 and 273 of the Indian Penal Code, and bringing it in line with the Food Act as well as the punishments prescribed by the IPC amendments made by Odisha, Uttar Pradesh and West Bengal.

2.The Amendments have been proposed in light of the judgment of the Supreme Court in the case of *Swami AchyutanandTirth&Ors. v. Union of India &Ors<sup>9</sup>*, wherein the Court had directed the Central Government to come up with suitable amendments in the Food Act and the IPC, to bring it at par with the State amendments. The court, in that case, was hearing a Writ Petition highlighting the menace of growing sales of adulterated and synthetic milk in different parts of the country and the inability of concerned State Governments and the Union to take effective measures for combating the adulteration of milk with hazardous substances.

3.The Law Commission of India, in its Report No. 264, has recommended life imprisonment for those convicted of manufacturing and selling adulterated food.

“After detailed discussions, the Commission felt that the punishment provided for is too inadequate in the present scenario. Therefore, the Commission is of the view that there must be more stringent punishment in offences relating to adulteration of food, which is a threat to human life. The Commission feels that the punishment must be seen in light of the harm caused to the consumer by consuming adulterated food items and drinks”.

4.The Commission has adopted the principle of proportionality to grade the injury caused due to the consumption of adulterated food products and recommends different jail terms and fines accordingly. As according to the recommendations, a non-grievous injury is punishable with a jail term of one year and a fine of Rs 3 lakh and a grievous injury is punishable with a jail term of 6 years and a fine of Rs 5 lakh. In case if the death of a person is caused after consuming adulterated food items, the panel has

<sup>9</sup> AIR 2016 SC 3626

recommended life imprisonment and a fine of Rs 10 lakh. Besides this, the Commission has also proposed the compensation for victims of food adulteration.

This chapter gives an insightful idea about the historical perspective of the food safety laws in India. Right from the Act of 1954 to 264<sup>th</sup> Report of the Law Commission, we came across various legislations to combat the problem of food adulteration. At present we have the *Food Safety and Standards Act, 2006* as a unified code for the food safety in India. In the next chapters, we will analyze The Prevention of Food Adulteration Act, 1954 as well as *The Food Safety and Standards Act, 2006* to compare these legislations.

