



Food safety and public health in India

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Abstract

A considerable disparity in the relationship between food safety and public health has been observed for a long; nevertheless, the right to health is recognised as a fundamental right. Insecurity towards food safety still continues to pose a serious challenge, reflecting government shortcomings in meeting constitutional obligations to ensure the highest attainable standard of health for their peoples. However, post-modern jurisprudence established the relationship between the right to healthy food and public health beyond any contradiction. In this context, the right to food safety has moved beyond the mere right to food to promote public health, which involves policy interventions and legislative framework at different levels to bring about behavioural changes in individuals. In this regard, despite several judicial approaches to right-based interpretation of the issue of public health, its effective application has not been fully witnessed so far in India. This present study aims to describe food safety in the protection of the right to health and also makes an attempt to explore the genesis of constitutional as well as a statutory commitment of the State along with judicial intervention from time to time to provide, promote and protect public health in India with special reference to the Food Safety and Standards Act, 2006.

Keywords: Food safety, food adulteration, fundamental right, health standard, public health, public health law, right to food, etc.

Introduction

Law has important contributions to several public health achievements. However, the conceptual framework for its effective application has not been fully realized ^[1]. The protection of the health of the overall population is an important issue of public concern, both at domestic and international levels. From a human rights perspective, it is important to consider whether the protection of public health is potentially also a human right, be it individual or collective in nature. In this perspective, the “right to health” can be a collective claim reflecting “public health ^[2].” Today, the field of public health has expanded from areas of communicable diseases and environmental sanitation to address enlarged health concerns, for instance, *inter alia*, the right against food adulteration. Therefore, to address current and future challenges in addressing health issues in the world, the United Nations have developed the Sustainable Development Goals to be achieved by 2030 ^[3]. Public health law is a combination of many types of legislation that have little in common except for the benign purpose of advancing public health. Thus, the reach of public health law is as broad as public health itself and both have expanded to meet the needs of society. It is important to note that while the right to health is considered an inherent human right, the right to food safety is its progressive realisation through declared constitutional and legal rights, in particular, through the 2006 Food Safety and Standards Act (hereinafter the 2006 Act). Therefore, examining public health from a food safety perspective can help to understand how to provide services and support for public health within the legislative framework and to proceed with further discussions about the relationship between food safety and the right to public health.

Definition of Public Health: Expanding Horizons

A recurring feature in all discussions of public health is that it focuses on population health rather than healing, preserving, or enhancing an individual’s health. Public health places an emphasis on protection, disease prevention, and promotion of well-being of health of the entire community. Therefore, defining public health becomes necessary to supplement and complement the definition of health ^[4]. The Preamble to the Constitution of WHO defines: “Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” As a result of the introduction of the determinants of health, there has also been a change towards a holistic understanding of health and a greater appreciation of the contributions that public health makes to protect and promote well-being of the health of the population at large. While the Constitution of the WHO does not define “public health” explicitly, however, its concept paper on *Strengthening Public Health Capacity and Services in Europe* states:

Public health refers to all organized measures (whether public or private) to prevent disease, promote health, and prolong life among the population as a whole. Its activities aim to provide conditions in which people can be healthy and focus on entire populations, not on individual patients or diseases. Thus, public health is concerned with the total system and not only the eradication of a particular disease ^[5].

This definition indicates that “public health” does not focus on individual patients or diseases and encapsulates many dimensions. While the primary focus of “public health” lies at the domestic level, WHO also recognises that, as a result of globalisation, forces that affect public health can and do come from outside State boundaries, and in that context it uses the term “global public health ^[6].” Without being exhaustive, another important new dimension of the WHO’s

concept of public health concerns the focus on socio-economic health inequalities. In relation to this, there is an increasing emphasis on the so-called “social determinants of health”, i.e. the “conditions in which people are born, grow, live, and work”^[7]. Besides, Article 12(2) of the 1966 ICESCR specifies the content of the right to health, but not the general scope of the right; rather, it identifies relatively specific fields of endeavour in which steps to achieve health are to be taken. The steps listed in Article 12 of the 1966 ICESCR are not limits on the right to health; but the steps listed do provide guidance which includes, *inter alia*, public health efforts to prevent, treat and control epidemics and other diseases; and the provision of medical care for acute illnesses.

Taking into account the above international instruments, “public health” may be described as the science of protecting and improving the health of individual and their communities through organised efforts. According to Acheson, it is “the science and art of preventing disease, prolonging life and promoting health through the organised efforts and informed choices of society, organisations, public and private, communities and individuals”^[8]. Examining the determinants of the health of a population at large and the various threats it faces is fundamental to public health. Apart from law and justice, the concept of public health is a multi-faceted, interdisciplinary field that is composed of many facets such as epidemiology, biostatistics, social sciences and management of health services etc. Thus, the very nature of public health is related to global health irrespective of the international borders. It is expected to promote laws that protect public health and maintain the standard of food safety including prevention of food adulteration is important global concerns to look into.

Food Safety and Public Health: Present Scenario

The classical function of the public health law aims to prohibit conduct injurious to health. Today, at the beginning of the 21st century, the field encompasses sophisticated concerns for physical and mental health, including the right to food and food safety, as well as the control of the safety and wholesomeness of food. Many competing social needs raise a number of issues, such as the question of how valuable are health and life, or how valuable is each human life and at how great a cost should it be protected when dealing with toxic or hazardous substances in the environment^[9].

In most modern countries, the advancement of public health is one of the main purposes of government, and many governmental activities may be regarded as activities to advance and protect the health of the people. The right to health potentially embraces the right to public health, when it comes to the protection against infectious diseases and other so-called “health security threats.”^[10] Access to sufficient amounts of safe and nutritious food is *sine qua none* for sustaining life and promoting good health. More than 200 diseases, from diarrhoea to cancer, are brought on by contaminated food that contains dangerous bacteria, viruses, parasites, or chemical residues^[11]. However, food provides an environment for microbial growth and, when contaminated, can act as a vector for bacteria, viruses, parasites, and prions, causing food poisoning. In addition, it is frequently polluted with dangerous compounds that are present naturally or that are mixed inadvertently or on purpose, which could also be detrimental. Malnutrition and

disease spiral out of control as a result, especially impacting the elderly, the sick, young children, and infants. The burden of food-borne diseases on public health and on economies has often been underestimated due to underreporting and the difficulty of establishing causal relationships between food contamination and serious health hazards. The consequences could well be serious, especially among some 20 million children in developing countries whose resistance to disease is diminished by malnutrition^[12].

Despite the penal provisions of the 2006 Food Safety and Standards Act, 1954 Prevention of Food Adulteration Act and 1860 Indian Penal Code^[13], it has been observed that violations of various food safety laws have been a serious cause of concern of public health in India in recent years. An increase of 130% was noticed in the year 2018 with respect to cases registered under the 2006 Act. In the same way, yearly increases of 106% and 136% have been noticed in 2019 and 2020 respectively. A significant increase in registered cases has been noticed under the 1954 Prevention of Food Adulteration Act as well. Most astonishingly, the rate of increase in cases registered under the 1860 Indian Penal Code has reached 221% during the last five years^[14]. Data has also been collected from 2014-15 to 2018-19 and analysed thereafter regarding the enforcement mechanism of food safety under the 2006 Act^[15]. As far as the working of the 2006 Act is concerned, the condition of food safety is not safe at all from a public health perspective. In the last five years, laboratory testing of food samples has increased 50%, whereas cases of food adulteration have increased 122%. This suggests how rampant the cases of adulteration are throughout the country. But, criminal proceedings against the perpetrators have not been increased in that ratio, it is only about 8%. And more interestingly, the conviction rate decreases to 45%. This analysis provides a clear picture of poor implementation of the penal provisions of the 2006 Act. However, the rate of imposing penalties has increased to 349% and the recovery of penalty amounts has increased to 196%^[16].

Constitutional Perspective of Right to Food Safety and Public Health in India

It is imperative to comprehend that the Constitution of India in its content does not explicitly recognise the right to food nor the right to public health as fundamental rights. However, the Indian judiciary has upheld the right to food and the right to health as fundamental rights while giving liberal interpretation to Articles 21, 23, 39, 43, and 47 of the Constitution of India. The right to food is protected under the right to life. People have to eat to survive, and if the right to livelihood is not upgraded as a fundamental right, then the easiest way to deprive a person’s right to life is to deprive him of access to food or means of livelihood^[17]. Supreme Court has asserted the fact that “the right to life guaranteed in any civilised society would take within its sweep the right to food”^[18]. The right to food is essential to having good health and having the right to health as a fundamental right^[19]. Children of tender age must have an opportunity and facility to develop in a healthy manner in conditions of freedom, dignity, and just and human conditions of living^[20]. The Supreme Court has emphasised in *Vincent Panikurlangara v. Union of India*^[21] that “a healthy body is the very foundation of all human activities.” Nonetheless, Article 47 of the Constitution of India requires

states to improve their people's nutrition and standard of living in order to improve public health. The State is to bring about the prohibition of the consumption of intoxicating drinks and drugs which are injurious to health except for medical purposes.

Nevertheless, improving the nation's public health is the primary constitutional obligation of the States^[22] and its scope is wider in nature. The availability of food to people must also be free from any adulteration that is not fit for human consumption. Therefore, the government is under an obligation to prohibit the exploitation of innocent people by the hand of economic gainers by marketing genetically modified food grains, which are harmful for human consumption. Realising the harmful impact of food adulteration on human health, the Apex Court has held that "even the food distributed through the public distribution system is required to pass the litmus test, and the government should conform to the letter and spirit of this provision; it cannot distribute food grains unsuitable for human consumption^[23]." The Allahabad High Court has issued a "writ of mandamus restraining the State from selling in the open market chemically processed soybeans which were unfit for human consumption."^[24]

Legislative Scheme of the Food Safety and Standards Act

The evil of adulteration of food and its effects on the health of the community have been assuming alarming proportions. Even marginal or borderline variations of the prescribed standards under the food safety legislation are matters of serious concern for all as public interests are involved in them. Realising the need for a central legislation, the Parliament of India enacted the Prevention of Food Adulteration Act, 1954 (hereinafter 1954 Act) to eliminate the danger to human life from the sale of unwholesome articles of food. Apart from these laws, there are provisions under the Indian Penal Code, 1860 (hereinafter 1860 Code) too, which deal with food adulteration. Chapter XIV of the 1860 Code lays down provisions dealing with "Offenses affecting the public health, safety, convenience, decency, and morals." According to Sections 272 and 273 of the 1860 Code, food or drink adulteration or sale of such food or drink is an offence punishable with imprisonment which may extend to six months or fine or both^[25]. In *Municipal Corporation of Delhi v. Kacheroo Mal*^[26], reaffirming the object and purpose of the 1954 Act, the Apex Court opined:

The [1954] Act has been enacted to curb and remedy the widespread evil of food adulteration, and to ensure the sale of wholesome food to the people. It is well-settled that wherever possible, without unreasonable stretching or straining, the language of such a statute should be construed in a manner which would suppress the mischief, advance the remedy, promote its object, prevent its subtle evasion and foil its artful circumvention.

However, the existence of a plethora of laws in the food industry and their operations has led to a lot of confusion for investors, manufacturers, traders, and consumers. A need was felt for the integration of all such laws. Therefore, the Food Safety and Standards Act, 2006 (hereinafter 2006 Act) was enacted^[27] to lay down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale, and import and to ensure the availability of safe and wholesome food for human consumption and for

matters connected therewith or incidental thereto. The 2006 Act incorporated salient features of the 1954 Act and other international law standards relating to food safety. The purpose of the enactment of the 2006 Act is to protect consumers against outright fraud^[28].

The 2006 Act is divided into 12 Chapters and 2 Schedules. It extends to the whole of India^[29] and makes a declaration to the effect that "it is expedient in the public interest that the Union should take under its control the food industry^[30]." Section 3 is the definition clause which defines and interprets, *inter alia*, "adulterant," "contaminant," "food," "food additive," "food safety," "hazard," "infant food," "misbranded food," "unsafe food," etc. The term "food" has been defined, under Section 3 (1) (j) of the 2006 Act, in the following manner:

Food means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food to the extent defined in clause (zk), genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants, prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances: Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality.

From the inclusive definition of "food" itself, it is evident that the 2006 Act was intended to cover everything meant for human consumption. A literal interpretation of the abovementioned statutory definition of food shows that the definition of food has been expanded beyond the definition given under the 1954 Act^[30]. Section 3(1) (zz) defines "unsafe food" as any article of food whose nature, substance, or quality is so affected as to render it injurious to health. Sections 4-17 provide for the establishment, composition, and function of the Food Safety and Standards Authority of India (hereinafter FSSAI) to ascertain the standards and regulate the manufacturing, import, processing, distribution, and sale of food. Section 18 deals with general principles of food safety, and Sections 19-24 deal with general provisions as to the articles of food. Section 25 makes it mandatory for all imports to be governed by the 2006 Act. Sections 26-28 deal with the special responsibilities of food business operators, manufacturers, packers, wholesale dealers, distributors, and sellers and the recalling procedure to be adopted in case of any omission in terms of safety norms. Sections 29-42 discuss how the legislature intended the Act to be enforced. Power is delegated to the Executive to issue various orders in order to ensure the effective implementation of the 2006 Act.

As per the provisions of the Act, the Central Food Authority and the State Food Authorities are responsible for the implementation of the provisions thereof. Sections 43-47 deal with the object of the 2006 Act, i.e., scientific analysis of food. Sections 48-67 deal with offences and penalties which provide for punishments for contravention of the provisions of the Act. While Section 48 describes how an offence may be committed with regard to food adulteration,

Sections 50 to 67 prescribe punishment in case an offence is committed. In particular, Section 59 set forth penalties for contaminated food. Sections 68-80 provide for an exhaustive adjudicatory mechanism, including the establishment, power, and function of the Food Safety Tribunal. Sections 81-84 cover a variety of topics, including delegation of powers, overriding effect, repeal and saving clauses, and transitory provisions for food standards. In addition, the First Schedule prescribes for zones to represent the States and the Union Territories, read with Section 5(1)(e) and the Second Schedule read with Section 97(1) subsequently repeals some existing laws on the subject^[32].

Enforcing Food Safety and Public Health: Role of Judiciary in India

Public health *vis-à-vis* all-around development of an individual is envisaged by the Constitution of India, where ensuring food safety is one of the essentials for achieving it. The Constitution empowers both the Parliament of India and the state legislatures to make laws relating to food safety. Providing all classes of citizens with a healthy environment and conditions for their all-round development is also a directive to the Constitution, and it is impossible without safe and nutritious food. Through their various judgements, the Indian judiciary has made it clear that laws relating to food safety and public health must be interpreted in the light of their constitutional goals. Judicial pronouncements have also made it clear that, under article 19 (1) (g) of the Indian Constitution, food safety and public health take precedence over the right to trade, occupation, and business^[33].

Reference can be made to a landmark judgement in *Saikhawant Ali v. State of Orissa*^[34], where the Apex Court expressed that “adulterated food, which would pose adverse health risk, there was a need to confer special powers so that in emergency conditions, the legislation could be properly implemented and the culprits punished appropriately.” In *Pyarali K. Tejani v. Mahadeo Ramchandra Dange*^[35], where the Supreme Court dismissed the plea of innocence notwithstanding a conviction was recorded. In this case, the important issues were, *inter alia*: (i) Does *supari*^[36] come under the ambit of food? (ii) Is the good faith of the vendor legally exculpatory even in a food offence? (iii) Can saccharin or cyclamate be regarded as health hazards at all? The Apex court opined that “scented *supari* is neither a staple diet nor popular with the poor, being an expensive item. Nor is saccharin poisonous but prohibited more as a precaution^[37].” That may be the reason for the prosecution not leading evidence of its injurious properties. Therefore, it was held that even in the absence of proof that the addition of saccharin and cyclamate in *supari* sold by the appellant was injurious to health, food cannot be called adulterated in statutory vocabulary. Whereas the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter the COTP Act) is a comprehensive legislation which deals with advertising, trade, sale, and distribution of tobacco and tobacco products, Hence, the 2003 COTP Act, being a “special law,” occupies the field for tobacco and tobacco products and would prevail over the 2006 Act, which is a “general law^[38].”

However, this definition of “food” in *Pyarali case*^[39], read along with the interpretation by the Constitution Bench of the Supreme Court given to the definition of “food” under the earlier 1954 Act, would bring all those substances which

are eaten and ingested or consumed within the human body for taste and nourishment within the ambit of “food.” Applying this principle, the products enumerated at serial numbers (i) to (v) and serial number (vii), namely: (i) Cigarettes; (ii) Cigars; (iii) Cheroots; (iv) Beedies; (v) Cigarette tobacco, (vi) Pipe tobacco and Hookah tobacco; and (vii) Snuff, in the Schedule to the 2003 COTP Act, would not fall within the definition of “food,” as they are not eaten or ingested as such into the human body. The dispute and controversy is whether the products enumerated at serial numbers (vi) Chewing tobacco, (viii) Pan Masala or any chewing material having tobacco as one of its ingredients (by whatever name called), (ix) Gutka, and (x) Tooth Powder containing tobacco would fall within the ambit of food^[40].

Another landmark judgement in the line of acknowledging the right to food safety and public health was pronounced by the Supreme Court in *Centre for Public Interest Litigation v. Union of India*^[41], wherein the petition was preferred for constituting an independent Expert/Technical Committee to evaluate the harmful effects of soft drinks on human health, particularly on the health of children. The Apex Court further added that “any food article which is hazardous or injurious to public health” may jeopardise the fundamental right to life protected by Article 21 of the Constitution of India. The States and their authorities are under a supreme obligation to ensure an adequate level of protection for human life and health, which is a fundamental right guaranteed to the people under Article 21 of the Constitution of India read with Article 47^[42].

In 2021, to determine the quality of milk and pinpoint various forms of adulteration in liquid milk across the nation, the FSSAI conducted a National Survey on Milk Adulteration^[43]. The purpose of the survey was (i) to identify the common adulterants in milk in rural and urban areas of different States; and (ii) to find out the non-conforming samples in loose and packed milk. The finding was so alarming as to indicate 68.4% of samples were found to be non-conforming, i.e., below the prescribed standard^[44]. The observation of the Supreme Court in *Raj Kumar v. State of Uttar Pradesh*^[45], is crucial with regard to milk adulteration which is rampant in India. In this case, when sample of milk was collected from the appellant by the Food Inspector and the same was sent to the Public Analyst, after examination “Milk Fat” and “Milk Solid Non-Fat” was found in the sample beyond prescribed limitation. Hence, referring to *M.V. Joshi v. M.U. Shimpi*^[46] and upholding the decisions of the High Court, the Apex Court observes:

...[O]nce standards are laid down by the Legislature then those standards have to be followed. In items like milk which is a primary food... it is not necessary to also prove that the food item had become unfit for human consumption or injurious to health. In cases of food coming under the Act, it is not required to prove that [a]rticle of food was injurious to health. In this case, the only question to be determined is whether the [a]rticle complies with the standards laid down or not? If it fails to comply with the standards then it will have to be treated as an adulterated article even if it is not rendered injurious to health. Even marginal deviation from the prescribed standard cannot be ignored.

Recently, in *Sugandhi Snuff King v. Commissioner (Food Safety)*^[47], validity of the prohibition imposed in the interest of public health by the Food Commissioner under Section

30 of the 2006 Act on the manufacture, storage, distribution, or sale of cigarettes and other tobacco products came into consideration before the Delhi High Court. The Court observes that the 2006 is an Act to consolidate the laws relating to food and to lay down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale, and import to ensure safe and wholesome food for human consumption and incidental matters. Nevertheless, the Apex Court, in protecting the health of the public at large, repeatedly observed that the expression “life” in Article 21 of the Constitution of India means a life with human dignity and not mere survival or animal existence^[48]. The expression “life” assured in Article 21 does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes the right to livelihood, a better standard of living, hygienic conditions in the workplace and leisure^[49]. However, the goal for public health was unmatched by infrastructure and resources; and as a result, the issue remained less addressed at the national level till the outbreak of the COVID-19 pandemic in India^[50].

Conclusion

Food safety continues to pose a serious global challenge, reflecting governments’ shortcomings in meeting international obligations to ensure the quality of food and to ensure the highest attainable standard of health of their population. Progressively realising the right to public health is a legal obligation recognised in public international law as well as constitutions and domestic legislation in many countries around the world, including India. From the foregoing provisions of this article, the overall condition of food safety and its impact on public health in India represent the outbreaks in food adulteration and the declining food safety standards have become a serious cause of concern which cannot be simply neglected. When it comes to addressing food and nutrition insecurity, international human rights law can be a crucial source of guidance for governments that are working hard to safeguard the health of their citizens, especially those who belong to the most vulnerable groups. Even if the 2006 Act is considered a good law, the problem still lies in its poor implementation. If the enforcement authorities established under the Act are not technically sound in terms of the enforcement provisions prescribed by the 2006 Act, it is not surprising that the lack of an enforcement mechanism would be witnessed in the near future. However, apart from the consolidation of the laws relating to food safety, quality, and standards, the FSSAI should focus on the systematic and scientific development of the food industry. It is understood that the implementation of the 2006 Act is still at its beginning stage and to address the growing concerns of the Apex Court regarding food adulteration and the implementation of the 2006 Act, the food authorities would require time to bring the legislation into its full force. Moreover, it is a fundamental duty of citizens to become more aware of food adulteration and to make zero compromise with food safety and standards, not only for themselves but also for future generations.

References

1. For theoretical foundation of the concept of public health, see, Jonathan CK *et al*, *Evolutionary Public Health: Introducing the Concept*, 390(10093) The

- Lancet 500,509 (2017); Van den Broucke & Stephan, *Health Literacy: A Critical Concept for Public Health*, 72(1) Archives of Public Health 1,2 (2014); Ross C. Brownson *et al*, *Evidence-Based Public Health: A Fundamental Concept for Public Health Practice*, 30(1) Annual review of public health 175,201 (2009).
2. Brigit Toebes, *Human Rights and Public Health: Towards a Balanced Relationship*, 19(4) The International Journal Of Human Rights 488 (2015).
 3. As part of the 2030 Agenda for Sustainable Development, in 2015 all member states of the United Nations adopted a total number of 17 Goals which set out a 15-year plan to achieve the Goals. One of these six goals is related to food security which is to be measured by the standard of food safety.
 4. Jason L. Cabaj & Richard Musto, *Public Health: Who, What, and Why?* 110(3) Canadian Journal of Public Health 341 (2019).
 5. Linda Marks *et al*, *Strengthening Public Health Capacity and Services in Europe: A Concept Paper* 9 (2011).
 6. For development of the concept of global public health, see Theodore M. Brown *et al*, *The World Health Organization and the Transition from “International” to “Global” Public Health*, 96(1) American Journal of Public Health 62, 72 (2006).
 7. World Health Organisation, *Social Determinants of Health* (1998); see also H. Graham & Piran Crawford Limond White, *Social Determinants and Lifestyles: Integrating Environmental and Public Health Perspectives*, 141 Public health 270, 278 (2016).
 8. See, E. D. Acheson, *On the State of the Public Health*, 102(5) Public Health 431, 437 (1988); see also Penka D. Gatseva & Mariana Argirova, *Public Health: The Science of Promoting Health*, 19(3) Journal of Public Health 205 (2011).
 9. See, Frank P. Grad, *Treatise on Environmental Law* (1973).
 10. For impact of unsafe food on human health, see Md. Abdullah Al Mamun *et al*, *An Overview of Food Adulterants and their Health Impacts*, 11(5) International Journal of Scientific Research and Publications 780-796 (2022); Kalaj Singh *et al*, *Food Adulterants and their Impact on Human Health; A Review*, 8(12) Journal of Emerging Technologies and Innovative Research 193-200 (2020).
 11. For various diseases caused by unsafe food, see Suka Thangaraju, *et al*, *Food Adulteration and Its Impacts on Our Health/Balanced Nutrition*, Food Chemistry: The Role of Additives, Preservatives and Adulteration 189-216 (Mousumi Sen, 2021); Asrat Ayza & Ermias Belete, *Food Adulteration: Its Challenges and Impacts*, 41 *Food Science & Quality Management* 50-6 (2015).
 12. For consequences of agricultural pesticides on human health, see Nayana Sharma & Ritu Singhvi, *Effects of Chemical Fertilizers and Pesticides on Human Health and Environment: A Review*, 10(6) International Journal of Agriculture, Environment and Biotechnology 675-680 (2017).
 13. Food related Legislations in India, namely, the Indian Penal Code, 1860: §272 - 276 relating to public health and safety; the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade

- and Commerce, Production, Supply and Distribution) Act, 2003; the Food Safety and Standards Act, 2006 to consolidate the Prevention of Food Adulteration Act, 1954; the Fruits Products Order, 1955; the Meat Food Products Order, 1973; the Vegetable Oil Products (Control) Order, 1947; the Edible Oils Packing (Regulation) Order, 1988; the Solvent Extracted Oil, De-Oiled Meal and edible Flour (Control) Order, 1967; the Milk And Milk Products Order, 1992; and any order made under The Essential Commodities Act, 1955.
14. Ministry of Home Affairs, National Crime Records Bureau, Indian Penal Code & Food Safety and Standards Act, Cases registered & disposal under Food Adulteration during 2017-2021.
 15. No data is available for 2019-20, 2020-21 and 2021-22.
 16. *See*, Ministry of Health & Family Welfare, Food Safety and Standards Authority of India, Food Safety and Standards Act, Cases registered & disposal under Food Adulteration during 2014-15 to 2018-19.
 17. *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.
 18. *Shantistar Builders v. Narayan Khimalal Totame*, AIR 1990 SC 630.
 19. *State of Punjab v. Mahinder Singh Chawla*, AIR 1997 SC 1225.
 20. *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802.
 21. AIR 1987 SC 990.
 22. Constitution of India, 1950, Art. 39 (e) and 47.
 23. *Tapan Kumar Sadhukhan v. Food Corporation of India*, (1996) Supp 4 SCR 775.
 24. *Shaivya Shukla v. State of Uttar Pradesh*, AIR 1993 All 171.
 25. Thus, the offence of adulteration under the 1860 Code arises only when the food article which is adulterated has become noxious; *see Ram Dayal v. Emperor*, AIR 1924 All 214.
 26. AIR 1976 SC 394.
 27. The Food Safety and Standards Act, 2006 (Act No. 34 of 2006) received the assent of the President of India on August 23, 2006 and thereafter published in the Gazette of India (Extraordinary) Part I, Section 1 dated August 24, 2006. The whole Act came into force w.e.f. August 05, 2011.
 28. *See*, *Deepak Agrawal v. State of Odisha*, Bail Application No. 2508 of 2021 (Ori).
 29. The Food Safety and Standards Act, 2006, §1.
 30. *Id.*, §2.
 31. The Prevention of Food Adulteration Act, 1954, §2(v) states: “food” means any article used as food or drink for human consumption other than drugs and water and includes: (a) any article which ordinarily enters into, or is used in the composition or preparation of, human food, (b) any flavouring matter or condiments, and (c) any other article which the Central Government may, having regard to its use, nature, substance or quality, declare, by notification in the Official Gazette, as food for the purposes of this Act.
 32. List of the enactments repealed: (i) The Prevention of Food Adulteration Act, 1954; (ii) The Fruit Products Order, 1955; (iii) The Meat Food Products Order, 1973; (iv) The Vegetable Oil Products (Control) Order, 1947; (v) The Edible Oils Packaging (Regulation) Order 1998; (vi) The Solvent Extracted Oil, De-oiled Meal, and Edible Flour (Control) Order, 1967; (vii) The Milk and Milk Products Order, 1992; and (viii) any other order relating to food issued under the Essential Commodities Act, 1955.
 33. The Constitution of India, 1950, Art. 19 (1) (g) provides for right to practice any profession or to carry on any occupation, trade or business to all citizens subject to Art. 19 (6) which enumerates the nature of restriction that can be imposed by the state upon the above right of the citizens.
 34. AIR 1955 SC 166.
 35. AIR 1974 SC 228.
 36. It is commonly referred to areca nut or betel nut. India is the largest consumer of it. *Supari* is available everywhere in the Indian subcontinent and is sold in ready-to-chew pouches called *pan masala*, as a mixture of many flavours whose primary base is dried areca nut crushed into small pieces.
 37. *Id.*
 38. *See*, *Godawat Pan Masala Products I.P. Ltd. v. Union of India*, AIR 2004 SC 4057.
 39. *Supra* note 50.
 40. *Id.*
 41. AIR 2014 SC 49.
 42. *Id.*
 43. The survey was conducted through a snapshot survey. A snapshot survey is ten to fifteen customer-designed questions that include two or three open-ended questions. It is designed to gather data quickly, efficiently, and anonymously on topics that are current and relevant at any given point of time.
 44. *See*, *Swami Achyutanand Tirth v. Union of India*, AIR 2016 SC 3626.
 45. AIR 2019 SC 4902.
 46. AIR 1961 SC 1494; (1961) 3 SCR 986; *see also Municipal Committee, Amritsar v. Hazara Singh*, 1975 AIR 1083; *State of Kerala v. Parameswaran Pillai Vasudevan Nair*, 1975 Cri LJ 97.
 47. Writ Petition No. (C) 3362/2015 (Del).
 48. *Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1981 SC 746.
 49. *See*, *Union of India v. Mool Chand Khairati Ram Trust*, AIR 2018 SC 5426; *Court on its Own Motion v. Union of India*, (2012) 13 SCR 109; *Air India Statutory Corporation v. United Labour Union*, AIR 1997 SC 645.
 50. For the role of the judiciary in addressing the public health issues during the COVID-19 pandemic, *see Maniben Maganbhai Bhariya v. District Development Officer, Dahod*, AIR 2022 SC 2119; *Akshay N. Patel v. Reserve Bank of India*, (2022) 3 SCC 694; *Centre for Public Interest Litigation v. Union of India*, AIR 2020 SC 5075;