

## Food safety and Standard Laws and Health Issues: A Case Study

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### Abstract

Food is the basic necessity for the survival of the human race. Therefore safe and good quality products are prerequisite for the health and wealth of the Nation as a whole. It is the right of the citizens to be provided good quality food as well as duty of the Government to make requisite arrangement to ensure the same. The present article will examine the role and functions of food safety and standard laws in India in the light of the recent 'Maggi' controversy in India.

**Key words:** Food safety, maggi controversy, FSSA 2006, PFA 1954, ECA 1955.

### Introduction

Consumers have a right to expect that the foods they purchase and consume will be safe and of high quality. They have a right to voice their opinions about the food control procedures, standards and activities that governments and industry use to ascertain that the food supply has these characteristics. Consumers and governments play an important part in ensuring food safety and quality. The food industry that continuously oversee the manufacture and processing of foods, from raw ingredients to finished product, day in and day out.<sup>i</sup> The private enterprise recognizes that its success and measured in terms of profitability is completely dependent on consumer satisfaction. A reflection of consumers' satisfaction is their continuing purchase of the same products. Food manufacturers and marketers thus have an investment in their product identities (brand names) that they naturally wish to protect. It is in their interest, therefore, to establish and administer the controls that ensure that their products do indeed meet consumer expectations of safety and quality<sup>ii</sup>. That is why WHO is promoting efforts to improve food safety, from farm to plate on World Health Day, 7 April 2015. The World Health Day 2015 slogan is: "From farm to plate, make food safe"<sup>iii</sup>.

## Food Safety and Health Issues: International Scenario<sup>iv</sup>

The recurrence of serious events of food contamination across the globe, food safety has become a matter of ever increasing international concern and the World Health Organization has defined food borne diseases as a global public health challenge. Protecting global health from food borne hazards is a compelling duty and a primary interest of both States and non-State actors; it calls for enhanced proactive cooperation between National and International institutions. Unfortunately, the present state of International law on food safety regulation and governance is still unsatisfactory and reforms are desirable in many respects. The improvements and progresses could be achieved in three major areas of intervention: a) the human rights framework, where the profile of the emerged right to safe food should be raised by way of express recognition in international human rights law, backed up by authoritative interpretation by the UN Committee on Economic, Social and Cultural Rights and strengthening of accountability and remedial measures; b) the regulatory framework, where trade and health issues related to food safety should be addressed in a way that contributes to easing tensions between trading parties while prioritizing consumer protection over freedom of trade; c) the sanitary framework, where International preparedness and response to public health hazards posed by food borne diseases should benefit, where appropriate, from the extended application of the International Health Regulations and the possible devise of enforcement measures aimed at ensuring International health security.

Awareness of the significance of food safety has been greatly enhanced in the last two decades, and its impact on health, marketing, and foreign trade are now recognized at different levels. Food safety issues have thus been at the core of extensive scientific and legal literature, with a focus on the most critical aspects of the subject and its intersection with other key legal issues (*e.g.* consumer protection, biotechnology and safety of genetically modified organisms, application of the precautionary principle, traceability of products, quality standards setting, responses to bioterrorist threats, freedom of trade and legitimacy of restrictions, international cooperation and governance of public health risks). Scientists and legal scholars have paid special attention to the management of food borne diseases, which are indeed a source of major concern for the whole International community.<sup>v</sup> These diseases encompass a broad spectrum of illnesses<sup>vi</sup> causing morbidity and mortality worldwide and their real overall health impact on the world population is yet unknown. Moreover, globalization of trade has led to the rapid and widespread international marketing of food products, demanding that the most careful controls be carried out along the entire food-chain from “farm to fork”.<sup>vii</sup> Whenever such controls fail and food production and distribution fall short of complying with regulations and standards set either at National or International level the potential likelihood of

transboundary incidents involving tainted food increases, and global health is hence seriously put at risk.

For the reasons stated above, international food safety is perceived as a global challenge. In the wake of a trend towards more efficient food safety policies, the 2007 Beijing Declaration on Food Safety<sup>viii</sup> gives voice to the global community's concern that a comprehensive and integrated approach be adopted, prompting all stakeholders to take cooperative and concerted actions and strengthening links between the different sectors involved. The Declaration, in fact, recognizes that "integrated food safety systems are best suited to address potential risks across the entire food-chain from production to consumption" and that "oversight of food safety is an essential public health function that protects consumers from health risks". In this perspective, it mainly urges States to develop transparent regulation to guarantee safety standards; to ensure adequate and effective enforcement of food safety legislation using risk-based methods; to establish procedures, including tracing and recall systems in conjunction with industry; to rapidly identify, investigate and control food safety incidents and to alert the World Health Organization (WHO) of those events falling under the revised International Health Regulations. In short, the Declaration expresses the need to understand food safety as both a National and an International responsibility.

### **Food Quality and Food Safety<sup>ix</sup>**

Quality includes positive and negative attributes that influence a product's value to the consumer. Positive attributes that demonstrate good quality may be the origin, colour, flavour, texture and processing method of the food, while negative attributes may be visible spoilage, contamination with filth, discolouration, or bad odours or tastes. However not all unsafe foods may demonstrate bad quality, that is, unsafe food may appear to be of good quality, such as tainted meat disguised using bleach or strong spices. This distinction between safety and quality has implications for public policy and influences the nature and content of the food control system most suited to meet predetermined National objectives. Traditionally, qualities of foods are evaluated by our sensory organs – our eyes, nose or mouth or, more recently, by the use of instruments. Sensory evaluation is commonly practiced by food regulatory authorities who consist of judging the quality of food by a panel of judges. The evaluation deals with measuring, evaluating, analyzing and interpreting the qualities of food as they are perceived by the senses of sight, taste, touch and hearing.

Food safety refers to limiting the presence of those hazards whether chronic or acute, that may make food injurious to the health of the consumer. Food safety is about producing, handling,

storing and preparing food in such a way as to prevent infection and contamination in the food production chain, and to help ensure that food quality and wholesomeness are maintained to promote good health.

### **Maggi Controversy in India**

Maggi is an International brand of seasonings, instant soups and noodles owned by [Nestlé](#) Company since 1947. The brand is popular in Australia, India, South Africa, Brazil, New Zealand, Brunei, Malaysia, Singapore, Sri Lanka, Bangladesh, Fiji and the Philippines. In several countries, it is also known as “maggi mee” (mee is Indonesian/Malay/Hokkien for noodles). Maggi noodles are part of the Maggi family, a Nestlé brand of instant soups, stocks, and noodles.

Nestlé have faced criticism over their advertising of the Maggi brand, adhering to marketing regulations in developed countries, but making misleading claims in developing countries where regulation permits it. Three major violations have been noted in Maggi product, viz. (a) presence of Lead detected in the product in excess of the maximum permissible levels of 2.5 ppm, (b) misleading labelling information on the package reading “No added MSG”, and (c) release of a non-standardised food product in the market, viz. “Maggi Oats Masala Noodles with Tastemaker” without risk assessment and grant of product approval<sup>x</sup>.

On 5 June, 2015, Food Safety and Standards Authority of India (FSSAI) ordered a recall of all nine approved variants of Maggi instant noodles and oats masala noodles from India, suggesting them unsafe and hazardous for human consumption. On the same day, Food Safety Agency of United Kingdom launched an investigation to find levels of lead in Maggi noodles. On 6 June 2015 the Central Government of India banned nationwide sale of Maggi noodles for an indefinite period. Nepal indefinitely banned Maggi over concerns about lead levels in the product. Maggi noodles has been withdrawn in five African nations- Kenya, Uganda, Tanzania, Rwanda and South Sudan by a super-market chain after a complaint by the Consumer Federation of Kenya. Testing found some MSG in Maggi noodles. The packet stated "No added MSG". However MSG naturally occurs in hydrolyzed groundnut protein, onion powder and wheat flour. Maggi offered to remove the words "No added MSG" from the package to overcome the objection<sup>xi</sup>.

Maggi packets includes packets of flavoring termed Tastemaker which is intended to dissolve in water during cooking. Maggi insisted that testing should be done on the product as it is eaten. However Food Safety and Standards Authority of India insisted that they should be tested as a powder itself. On June 5, the FSSAI said that the prescribed standards of 2.5 parts per million would have to apply to all components of the product. Out of the 13 samples tested by Delhi authorities, 10 of them had lead content exceeding this limit. The original sample from

Uttar Pradesh, which raised the alarm in the first place, had 17.2 ppm of lead. Nestlé also questioned reliability of the labs used. Testing outside of India (Singapore, USA) resulted in reports that Maggi noodles are safe<sup>xii</sup>. In the later Bombay High Court judgment, the court agreed that the test results by the earlier labs were unreliable.

## Food Safety and Standards Laws

The Indian food processing industry is regulated by several laws which govern the aspects of sanitation, licensing and other necessary permits that are required to start up and run a food business. The legislation that dealt with food safety in India was the Prevention of Food Adulteration Act, 1954 (PFA). The PFA had been in place for over five decades and there was a need for change due to varied reasons which include the changing requirements of our food industry.

The Act brought into force in place of the PFA is the Food Safety and Standards Act, 2006 (FSSA) that overrides all other food related laws. It specifically repealed eight laws which were in operation prior to the enforcement of FSSA:

- The Prevention of Food Adulteration Act, 1954
- The Fruit Products Order, 1955
- The Meat Food Products Order, 1973
- The Vegetable Oil Products (Control) Order, 1947
- The Edible Oils Packaging (Regulation) Order, 1998
- The Solvent Extracted Oil, De oiled Meal, and Edible Flour (Control) Order, 1967
- The Milk and Milk Products Order, 1992
- Essential Commodities Act, 1955 (in relation to food)

The PFA dealt with countless Government ministries handling different food sectors as per separate orders, like the fruit products order, and other orders related to vegetable oil products, edible oils packaging, milk and milk products and meat food products, which were issued at different points of time and were sometimes overlapping and inconsistent. On the other hand, a unified Act like FSSA enables unidirectional compliance. The administrative control of the FSSA has been assigned to the Ministry of Health and Family Welfare thereby establishing a single reference point for all matters and eradicating any possibility of multiplicity of orders or the chance that any coordination problems are caused.

FSSAI initiates harmonization of India's food regulations as per International standards. It establishes a new National regulatory body, the Food Safety and Standards Authority of India (FSSAI), to develop science based standards for food and to regulate and monitor the manufacture, processing, storage, distribution, sale and import of food so as to ensure the availability of safe and wholesome food for human consumption. All food imports will therefore be subject to the provisions of the FSSA and rules and regulations which as notified by the Government on 5<sup>th</sup> of August 2011 will be applicable.

### **Food Safety and Standards Authority of India (FSSAI)**

**The Food Safety and Standards Authority of India (FSSAI)** have been established under Food Safety and Standards Act, 2006 which consolidates various Acts & Orders that have hitherto handled food related issues in various Ministries and Departments. The Act also aims to establish a single reference point for all matters relating to food safety and standards, by moving from multi- level, multi- departmental control to a single line of command. To this effect, the Act establishes an independent statutory Authority – The Food Safety and Standards Authority of India with head office at Delhi. Food Safety and Standards Authority of India (FSSAI) and the State Food Safety Authorities shall enforce various provisions of the Act. Ministry of Health & Family Welfare, Government of India is the Administrative Ministry for the implementation of FSSAI. The Chairperson and Chief Executive Officer of Food Safety and Standards Authority of India (FSSAI) are appointed by Government of India. The Chairperson is in the rank of Secretary to Government of India.

**FSSAI has been mandated by the FSS Act, 2006 for performing the following functions<sup>xiii</sup>:**

- Framing of Regulations to lay down the Standards and guidelines in relation to articles of food and specifying appropriate system of enforcing various standards thus notified.
- Laying down mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management system for food businesses.
- Laying down procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories.
- To provide scientific advice and technical support to Central Government and State Governments in the matters of framing the policy and rules in areas which have a direct or indirect bearing of food safety and nutrition.
- Collect and collate data regarding food consumption, incidence and prevalence of biological risk, contaminants in food, residues of various, contaminants in foods products, identification of emerging risks and introduction of rapid alert system.

- Creating an information network across the country so that the public, consumers, Panchayats etc receive rapid, reliable and objective information about food safety and issues of concern.
- Provide training programmes for persons who are involved or intend to get involved in food businesses.
- Contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards.
- Promote general awareness about food safety and food standards.

## **Maggi Noodle Controversy and Legal Issues**

There are basically three legal issues surrounding the maggi controversy<sup>xiv</sup>:

1. The presence of lead in excess of the permissible safety limits of 2.5 ppm as provided under the Regulation 2.1.1:1 of the Food Safety and Standards (Contaminants, toxins and residues) Regulation, 2011 (the "Contaminants Regulation")<sup>xv</sup>;
2. A violation of Regulation 2.4.5:18 of the Food Safety and Standards (Packaging and Labelling) Regulation, 2011 (the "Labelling Regulation") with regard to the following label „No added Mono Sodium Glutamate ("MSG") added" whereas Maggi was found to contain MSG; and
3. The release of „Maggi Oats Masala Noodles with Tastemaker" (hereinafter referred to as "Maggi Oats") in the market without completing the process of risk/safety assessment and approval by the FSSAI.

In brief the order dated 5th June, 2015 issued by Food Safety and Standard Authority of India, Delhi has held M/s. Nestle India Ltd liable inter alia under Section 20, 22, 23 and 24 r/w Section 53, Section 26, 27,48, 50, 52 and 58 and 59<sup>xvi</sup> amongst others of the FSS Act, 2006<sup>xvii</sup>. The FSSI order also directed M/s. Nestle India Ltd to withdraw and recall the 9 approved variants of Maggie instant Noodles from the market since these products having been found unsafe and hazardous for human consumption.

Section 20 deals with Contaminants, naturally occurring toxic substances, heaving metals etc which states that food products will only contain the quantities as specified by the regulations. Section 22 deals with genetically modified foods, organic foods, functional foods, proprietary foods<sup>xviii</sup>. It is this "proprietary food" provision that has been used against Maggie Oats Masala Noodles with Tastemaker whereby M/s. Nestle India Ltd was asked to recall and withdraw the product with immediate effect. Section 23 of the FSSI Act deals with packaging and labelling of foods, M/s. Nestle India Ltd has been prima facie being liable under this section since the label of Maggie specifies that the product does not contain any MSG whereas lab testing of the product confirmed that the MSG presence was much higher than the prescribed limit.



Section 27 deals with liability of the manufacturers, packers and wholesalers, distributors and sellers and amongst various other liability Section 27 (3) (c) deals with liability of wholesalers and distributors for unsafe and misbranded. Section 48<sup>9</sup> in detail covers provisions relating to offences.

The company has challenged the order dated 5th June, 2015 issued by FSSAI and order dated June 6<sup>th</sup>, 2015 issued by Maharashtra FDA whereby direction was issued to recall Maggi products from the market before the Hon'ble Bombay High Court and matter is still pending.

## Conclusion and Findings

The right to food was first recognized in the Universal Declaration of Human Rights in 1948, and further codified by the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), which entered into force in 1976. In the ICESCR the right is recognized as part of an adequate standard of living, which also includes housing and clothing (Art. 11-1), and it enjoys separate recognition (Art. 11-2). The right to food is also closely related to the right to life, which is protected under Article 6 of the International Covenant on Civil and Political Rights (ICCPR). The 1992 Rio Declaration on Environment and Development proclaimed that human beings are entitled to a healthy and productive life in harmony with nature (principle 1), and Agenda 21 contains numerous references to food security and food safety<sup>xix</sup>.

The whole controversy surrounding Maggi has caught everyone's attention on two issues. First, Nestle and second the Food Safety and Standards Authority of India (FSSAI). People now realise that a government organisation exists that is supposed to ensure the safety of the food we consume. FSSAI has been in the news for quite some time now in relation to imported food items, but its name has now reached the common man with the Maggi controversy. The FSSAI has certain regulations providing the standards for different kinds of food articles and additives that may be permitted to be used in food products called the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011. However, it has failed to develop a standardized revised format and criteria to define the adequate requirements for standardization of food and food products. Proprietary Food is a category under the FSS Act, which is not standardized under the regulations and these regulations provide for an additional labeling requirement major issues that have caused a legal dilemma and discussion have been on the basis of the definition provided to proprietary foods which did not conclude that the non-standardized foods are not allowed to be manufactured, imported or sold, but also doesn't mean exclusively that all other non-standardized products, not mentioned in the list of 377 food items, may be manufactured. Given the back drop, The biggest lacuna of FSSAI has been the non-inclusion of thousands of food products that need minimum standards to be prescribed



and the ratification of International standards for the same. The "Product Approval Scheme" by the FSSAI has been held unconstitutional by the Bombay High Court under Section 93 of FSS Act.

The Maggi Controversy erupted when an officer of the UP Food Safety and Drug Administration Ordered laboratory tests of some samples of Nestle's Maggi instant noodles. The Gorakhpur lab tested positive for MSG whereas the labeling on the product claimed that it contained no added MSG i.e. monosodium glutamate. According to the FSS Rules 2011, MSG, a flavor enhancer, is not permitted in over 50 items but is allowed to be used as a seasoning for noodles and pastas. According to the FSS (Contaminants, Toxins and Residues) Regulations 2011, the permissible limit of lead for instant noodles ranges to a maximum of 2.5 ppm. The tests revealed that the product contained 17 parts per million lead as opposed to the permissible limit of 0.01ppm.

Nestle India said on May 21,2015 "We do not add MSG to our Maggi noodles sold in India and this is stated on the concerned product. However, we use hydrolysed groundnut protein, onion powder and wheat flour to make Maggi noodles sold in India, which all contain glutamate. We believe that the authorities' tests may have detected glutamate, which occurs naturally in many foods." FSSAI-approved testing methods for MSG only test for glutamic acid, which is a component of several foods, including hydrolysed vegetable proteins. "Tests in India are not as sensitive as those in developed countries, where individual sources of every component can be identified"<sup>xx</sup> "Actually there are always two lines of manufacturing in India. One is for poor people like we Indians and the other is for Singapore and Europe. Nestlé has faced criticism of its advertising not adhering to marketing regulations in developed countries, and making misleading claims in developing countries. Also, in October 2008 Nestlé mistakenly aired a commercial meant for Bangladeshi television on British TV. The advert made false claims that the noodles would "help to build strong muscles, bone and hair". The British Advertising Standards Authority said that the advert did not abide by the new European Union consumer protection legislation, by which advertisers have to provide proof of health claims.

Food controversies are not new to India. Like iconic brands such as Cadbury, Pepsi and Coke that had once been considered unsafe, For one, FSSAI, the food regulator of India, is waking up to the magnitude of the job at hand-of regulating India's organised and unorganised food sector. Second, a more evolved consumer. The National Consumer Disputes Redressal Commission has got the maximum number of calls in its history enquiring about food safety in the week after the Maggi controversy erupted.

Most state labs also lack the capability to test most products. In Delhi, one of the first to ban the sale of Maggi for 15 days, the sample was sent to a referral lab. "I picked 13 samples of

which 12 failed. Five samples were mislabelled," says K.K. Jindal, food safety commissioner, Delhi. He complains of shortage of staff: there is need for 10 food chemists in the lab, but there are only three. "If I have to do a microbiological analysis, I don't have the expertise," he adds. Apart from the controversy over the head of the FSSAI, there is an issue of shortage of staff. It is the most neglected department as posts are lying vacant in the capital Delhi itself. In Delhi, two-thirds of the posts are vacant and out of 32 food safety officers only 12 officers are available to check adulteration of food products. Even the testing laboratories of the FSSAI are in pathetic condition. Delhi labs face almost 75 percent of staff shortage. Because of such shortage, test reports take more than 20 days of preparation while it should be over in three to four days.

The other big issue is the lack of a foolproof mechanism to enforce the laws. While the central regulator's job is to frame rules, enforcement, including grant of licences and sales, rests with the states. A few years ago, the central government had thought of strengthening food and drug administration in India along the lines of the US Food and Drug Administration (FDA). But currently, only seven states - Uttar Pradesh, Maharashtra, Madhya Pradesh, Jammu and Kashmir, Haryana, Gujarat and Goa - have proper food and drug administrations. Orissa, Delhi, Kerala and Tamil Nadu have a food safety department, headed by a food safety commissioner. In the remaining states and union territories, the job of ensuring food safety is entrusted with health and family welfare departments. Regulatory sources say manpower to monitor the over \$25 billion food industry is the biggest issue in most states. As of February 2015, the FSSAI has granted 18,736 central licences, while states and UTs granted another 5,50,808 licences. There is also a registered base of 23,73,484 food business operators in the food sector. Sources say at least an equal number of unregistered FBOs operate in India. It is practically impossible to collect samples and monitor all the units on a regular basis.

Statistics also reveal the pitiable enforcement scene in the country. In 2013/14, only 72,200 food samples were examined across the country. Of this, 13,571, or nearly 19 per cent, were either found to be misbranded or adulterated. The agency initiated action against 10,235 defaulters, but only 3,845 were convicted or penalised. Similarly, in 2012/13, 69,949 samples were examined, and 10,380 were found to be nonconforming. Only 5,840 of the culprits were prosecuted, while 3,175 were awarded penalties or convicted. There is a large number of states whose record is poor in terms of food adulteration investigations. For 2012-13, Jharkhand, Lakshadweep, Tripura and West Bengal show no record as per the FSSAI website. In West Bengal only 91 samples were checked and 41 of them were declared misbranded but no penalties and conviction could be slapped. In Bihar too, in 2012-13, the samples in the range of 371 were declared misbranded but not a single rupee was collected as penalty. Similarly in

Haryana out of 1,500 samples 235 were misbranded and 131 cases were lodged but neither a single conviction could happen nor penalties were recovered<sup>xxi</sup>.

Data also reveal that several states are either not equipped or bother to monitor the industry regularly and test samples. Figures for 2013/14 show only one sample was taken and tested in Andaman and Nicobar, six in Dadra & Nagar Haveli, 40 in Daman and Diu, 704 in Goa, 213 in Arunachal Pradesh, 236 in Himachal, 17 in Meghalaya and 66 in Nagaland. Even in states where a large number of samples were analysed, the violators got away. For example, Andhra Pradesh found 716 adulterated or misbranded food samples, but nobody was convicted.

The infrastructure for continuous monitoring requires both public and private sectors laboratories and exclusive central referral laboratories to validate the testing procedures. In India, there are sufficient Nation Accreditation Board for Testing and Calibration Laboratories-accredited laboratories to undertake the food quality analysis at a cost ranging between Rs. 10,000 and Rs. 20,000 per sample. However, estimating heavy metals in food samples need sophisticated equipment costing about Rs. 1 Crore, and State such as Tamil Nadu are among the few that have such facilities<sup>xxii</sup>.

The country does not have the necessary infrastructure for test facilities and even existing testing units do not often meet global standards. There are only 166 approved laboratories that are capable of testing samples collected from the near 24 lakh FBOs. Of this, there are 90 NABL (National Accreditation Board for Testing and Calibration Laboratories) units, apart from around 12 referral labs of repute. But their workload is huge.

The India Today Television team conducted a sting operation in which they approached FSSAI officials pretending to have a food product with high lead levels in October 2015. One of them agreed to pass the samples without conducting any tests. told the team that "When you make money by selling your product, just pay me Rs 20,000 on a yearly basis" He revealed that milk samples from one of India's best known companies had been dismissed by deliberately adulterating it, because company did not agree to bribe the inspectors. Food and Consumer Affairs Minister Ram Vilas Paswan reacting to the operation said that "Standard products are being labelled as sub-standard and faulty products are being passed by such corrupt officials. This is a big crime and I demand strongest possible action against all those found guilty," and promised to take serious action, although FSSAI is not administer by his ministry. Commenting on the reports, Union Health Ministry stated that FSSAI has clarified that the officials who have figured in the sting operation are not working in FSSAI but are employees of the UP state government<sup>xxiii</sup>.

## Grey Areas: Need for immediate Improvements

Consumer policy experts and activists have identified several grey areas that help food operators to supply sub-standard products to consumers and yet remain 'untouched'. It's ultimately the consumer, who gets the wrong end of the stick<sup>xxiv</sup>.

- Central regulator doesn't conduct regular inspections and testing of products, to ensure that only the right quality product is sold in the market.
- There is laxity on part of state governments' food safety departments as well.
- There is lack of proper coordination between the Centre and states, as the latter don't report to the Centre in this regard.
- Barring a few laboratories accredited by the National Accreditation Board for Testing & Calibration Laboratories (NABL), several testing laboratories in states fail to conform to standards. The equipment used by these labs is often not upgraded and not properly calibrated. It leads to variation in results.
- Despite having immense power, the food safety commissioners and officers in states don't exercise it on a regular basis to keep a check on all ready-to-eat products on shelves.
- Often the field inspectors fail to get permission from higher authorities to conduct a raid and check products.
- Lack of proper training facilities of inspection staff, and modernization.
- Unlike abroad, the implementation of law and regulations is weak in India. So, is the penalty.
- Both the regulator at the Centre and food safety departments in the states suffer from staff crunch. The state units lack funds.
- Corruption is another area of concern.
- A Five-year action plan chalked out jointly by the Centre and states in 2009-10 is yet to be implemented

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## References:

- <sup>i</sup> Gardner Sherwin, *Consumers and food Safety: A food Industry Perspective* (<http://www.fao.org/dorcrep/42890/>)
- <sup>ii</sup> *Report of the FAO/WTO conference on Food Standard, Chemicals in Food and Food Trade, Rome (1991)*
- <sup>iii</sup> *Food Safety: What you should know by World Health Organisation on World Health Day, 7 April, 2015*
- <sup>iv</sup> Negri Stefania, 'Food safety and global health', *Global Health Governance, Vol.III, No. 1 (2009)* (<http://www.ghgj.org>)
- <sup>v</sup> For full coverage of food safety issues see the relevant web pages at [http://www.who.int/topics/food\\_safety/en/](http://www.who.int/topics/food_safety/en/).
- <sup>vi</sup> According to the WHO, "foodborne illnesses are defined as diseases, usually either infectious or toxic in nature, caused by agents that enter the body through the ingestion of food" (see WHO Fact Sheet No. 237, Reviewed March 2007). Major foodborne diseases of bacterial origin are brucellosis, salmonellosis, listeriosis, escherichiosis, campylobacteriosis, cholera, botulism; other agents causing serious health problems are naturally occurring toxins (such as mycotoxins and marine biotoxins), and agents which may contaminate food through pollution of air, water and soil, like the so-called Persistent Organic Pollutants (e.g., dioxins) and metals (especially lead, mercury and cadmium). Other unconventional agents embrace anthrax and the agent causing Bovine Spongiform Encephalopathy, which is associated with the variant Creutzfeldt-Jakob disease.
- <sup>vii</sup> The "farm to fork" approach implies that food hygiene legislation issued both at the national and at the international level apply at every stage of the food chain, including primary production (e.g., farming, fishing and aquaculture), and that official and effective controls under the responsibility of national authorities be carried out from the input level to the front end retail. The "farm to fork" approach to food safety was the subject of extensive debate at the Pan-European Conference on Food Safety and Quality, held in Budapest on February 25-28, 2002 (see especially the FAO conference document on FAO Veterinary Public Health and Food and Feed Safety Programme: the Safety of Animal Products from Farm to Fork, available at <http://www.fao.org/docrep/MEETING/004/AB500E.HTM>), and at the Second FAO/WHO Global Forum of Food Safety Regulators, held in Bangkok on October 12-14, 2004 (see [http://www.foodsafetyforum.org/global2/index\\_en.asp](http://www.foodsafetyforum.org/global2/index_en.asp)). For further information on this approach as adopted in the context of the activities of the European Commission's Directorate-General for Health and Consumers, see [http://ec.europa.eu/food/index\\_en.htm](http://ec.europa.eu/food/index_en.htm); see also the Commission's explanatory booklet *From farm to fork – Safe food for Europe's consumers* (2005), available at [http://ec.europa.eu/food/resources/publications\\_en.htm](http://ec.europa.eu/food/resources/publications_en.htm).
- <sup>viii</sup> The Declaration was adopted by consensus by the High-level International Food Safety Forum, "Enhancing Food Safety in a Global Community," held in Beijing on November 26 and 27, 2007, with the participation of senior officials and well-known experts from relevant international organizations and various government authorities as well as representatives of food industry and consumers. Available at: [http://www.who.int/foodsafety/fs\\_management/meetings/forum07/en/index.html](http://www.who.int/foodsafety/fs_management/meetings/forum07/en/index.html).
- <sup>ix</sup> *Supra Note 3*
- <sup>x</sup> Order No.10/Q.A./Enforcement Issues/FSSAI--2015 by Food Safety and Standards Authority of India, Para2, dated June 5, 2015
- <sup>xi</sup> Maggi Noodles safety Scare in India, Maggi from Wikipedia, the encyclopedia
- <sup>xii</sup> *Ibid*
- <sup>xiii</sup> For Detail See; Official website of Food Safety and Standards Authority of India (<http://www.fssai.govt.in>)
- <sup>xiv</sup> Sarshar Mubashshir, *Controversy Surrounding Maggi Noodles: Legal Issues*, National Law University, Delhi (2015) (<http://works.bepress.com/mubashshir/31>)
- <sup>xv</sup> See Regulation 2.1.1:1 of FOOD SAFETY AND STANDARDS (CONTAMINANTS, TOXINS AND RESIDUES) REGULATIONS, 2011 (Chemicals described in monographs of the Indian Pharmacopoeia when used in foods, shall not contain metal contaminants beyond the limits specified in the appropriate monographs of the Indian Pharmacopoeia for the time being in force).
- <sup>xvi</sup> For Detail See: Food Safety and Standards Act, 2006
- <sup>xvii</sup> *Ibid*
- <sup>xviii</sup> 'Proprietary and Novel Food, means an article of food, for which standards have not been specified but is not unsafe; See, Sec, 22(4) of the FSSI Act, 2006
- <sup>xix</sup> Borghi, M. & Postiglione Blommestein, L. (eds.). 2002. *For an Effective Right to Adequate Food. In Proceedings of the International Seminar on The Right to Food: A Challenge for Peace and Development in the 21<sup>st</sup> Century, Rome, 17-19 September 2001. Presses Universitaires de Fribourg, Fribourg.* (<http://www.fao.org/docrep/005>)

<sup>xx</sup> Chatterjee Pritha, 'Explained: The Controversy surrounding Maggi noodles', *The Indian Express*, June 5, 2015. (See more at: <http://indianexpress.com/article/explained/explained-noodles-in-the-soup/#sthash.nxS3Zo2I.dpuf>)

<sup>xxi</sup> *Ibid*

<sup>xxii</sup> Punj Shweta, 'Under scanner: In God we trust. Lack of standard testing protocols. Compromised enforcement in the states, on which the onus of food safety lies. India eats, drinks at its own peril'; *India Today News Live TV Magazine*, June 11, 2015

<sup>xxiii</sup> *Supra* Note 11

<sup>xxiv</sup> *Not Just Maggi: Here's the shameful truth about food safety inspection in India*, *Firstpost*, Jun 5, 2015