

Review Article

Comparative analysis of Sri Lankan and Indian Food Acts: legislative consistencies and inconsistencies

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Key words: Food Act, Food Safety, Sri Lanka, India

Abstract

Background and Objectives

All people have a right to access safe food as unsafe food leads to undesirable health consequences. Therefore, countries enact legislation to ensure food safety. The Food Safety and Standards Act of 2006 is the main food law in India while in Sri Lanka it is the Food Act of 1980. A comparison of these two laws enables us to study better legal provisions and may help to improve the Sri Lankan food law in the future.

Methods

A comparative analysis was conducted using a check list which was developed based on the Indian Food Safety and Standards Act of 2006 and the Sri Lankan Food Act of 1980.

Results

The definition of food in the Indian act specifically includes certain food items while it excludes non-food items such as medicinal products; however, the definition in the Sri Lankan act is not that precise. Unlike in Sri Lanka, in India a Food Safety Officer - Indian food inspection officer – is specifically allocated for food safety activities and is directly monitored by a superior authority such as the Designated Officer and Commissioner of Food Safety, through legal provisions. Regulations concerning food premises in Sri Lanka are vague and contravene the primary act while such confusion is not present in the Indian law. In contrast to Sri Lankan law, Indian law permits the issuance of a Notice of Improvement without prosecution. In addition, imprisonment is compulsory as a penalty. Under the Indian law, It is a legal requirement to test food samples in an accredited laboratory but such a requirement is not found in Sri Lanka.

Conclusions and Recommendations

Several deficiencies are present in the Sri Lankan food law. Therefore, there is an opportunity for bringing about improvements through future amendments. The definition of 'food' and 'food-medicine interface' is not precise and needs to be revised. The efficiency of Authorized Officers is low in Sri Lanka and can be improved by allocating an Authorized Officer specifically for food safety activities, giving more authority for monitoring food safety to the Chief Food Authority and Food Authorities and by approving Veterinary Surgeons and appointing Additional Medical Officers of Health as Authorized Officers. Sri Lankan legal inconsistencies with regard to registration of food premises needs to be corrected and specialized food laboratories need to be accredited. Additionally, Sri Lankan Food Authorities should be given powers to issue notices for violations which do not directly affect human health.

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Introduction

Food is a basic need of human beings and has been indirectly identified as a human right by the Universal Declaration of Human Rights i.e. a standard of living adequate for health and well-being [111]. Food itself does not ensure an adequate standard of living unless it is safe. Unsafe food has been a human problem throughout the history of man. Food fulfils hunger and provides nutrition for growth. On the other hand, unhealthy food leads to a variety of health consequences. Unsafe food which has harmful bacteria, viruses, parasites or chemical substances can cause a large number of health problems. Globalization of the food trade and a growing world population can adversely affect food safety [2]. Governments should give priority to develop policies and a regulatory framework to ensure food safety [3]. Health legislation is an important instrument of public health; thus, most countries have enacted legislation pertaining to health [4]. Food safety is an important aspect of health which is heavily regulated by laws. India and Sri Lanka are South Asian countries which more or less share similar threats to and outcomes of food safety. The *Food Safety and Standards Act of 2006* [5] is the main law governing food safety in India while the *Food Act of 1980* [6] is the main law governing food safety in Sri Lanka. The Sri Lankan *Food Act of 1980* has been amended twice in 1991 [7] and 2011 respectively [8].

This study compares the Indian *Food Safety and Standards Act of 2006* with the Sri Lankan *Food Act of 1980* which are main food laws governing food safety in each country. Both laws are under the administrative purview of the health sector. We hope this comparison will identify potential deficiencies in the Sri Lankan food law which may be improved in the future by introducing suitable amendments.

Methods

Indian and Sri Lankan food laws and court cases relevant to these laws were identified from websites as well as from original publications. A checklist was developed based on the Indian *Food safety and Standards Act of 2006* and the Sri Lankan *Food Act of 1980*. This checklist included the broad areas of 'definition of food', 'regulations', 'food authorities', 'advisory committee' 'authorized officers', 'registration of food business/premises', 'food sampling' 'food analysis', 'issuance of notices', 'legal proceedings' and 'penalties'.

Results

Definition of 'food'

Food laws are focused on food; therefore, identification of an item as a *food* is a prerequisite of food laws. Correct identification of food for the purpose of the law depends on the legal definition of food. Indian law provides a clear scope for implementation of its food law by including specific inclusions and exclusions in its definition of food. Section 3 of the Indian *Food Safety and Standards Act of 2006*, defines *food* as any substance, processed or partially processed or unprocessed, which is intended for human consumption. Furthermore, it includes genetically modified food, infant foods, packaged drinking water, alcoholic drink, chewing gum and any other substance, including water, used in the manufacture, preparation or treatment of food for human consumption, while excluding 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, narcotics or psychotropic

substances [5]. The definition of food in the Sri Lankan law is not that specific. The Sri Lankan *Food Act of 1980* defines food in section 33 as any article manufactured, sold or represented for use as food or drink for human beings and includes any article which ordinarily enters into or is used in the composition or preparation of food [6] without any comment on drugs, narcotics, plants prior to harvesting or live animals.

The importance of a precise definition is expressed in judicial judgments. Whether 'chewing tobacco' fitted into the definition of food was argued in the Indian courts. It was decided that it is a food, as it is chewed in the mouth and mixes with saliva similar to chewing gum which is expressly considered a food by Indian law [9]. Similarly, 'Masala' with tobacco was decided to be a food as the Indian Food Act has not excluded tobacco from the definition of food [10]. Arecanut was under question in another case as it is a primary agricultural product; however, the Indian court considered it as a food as it commonly enters into or is consumed by humans [11]. Even though the definition of food is less precise in Sri Lankan law, there are no reported cases in the higher courts with regard to the scope of the definition of food.

Regulations

Regulations are made under the provisions of the primary act. This basic legal principle exists in both countries. Section 92 of the Indian *Food Safety and Standards Act of 2006* provides for regulations to be made by the Parliament and Section 91 provides for regulations to be made by the *Food Safety and Standards Authority* of India which is an administrative body. Therefore, both the political and administrative authorities can make regulations in India [5]. The Sri Lankan situation is different as only the Minister can impose regulations in terms of Section 32 of the Sri Lankan *Food Act of 1980*; therefore, only the political authority can make regulations in Sri Lanka. However, in terms of Section 11 of the Sri Lankan *Food Act of 1980*, the Chief Food Authority may issue orders [6]; but they are not laws but merely directions to implement the provisions of the Act.

Food Authorities

In the legal context, an 'authority' is a body responsible to ensure that the Act is implemented in a designated area. Even though the nomenclature and designations differ, the basic functional structure seems to be the same in both countries. As per the Indian *Food Safety and Standards Act of 2006*, - in its sections 4 to 10 - the *Food Safety and Standards Authority* of India is the authority which is established by the Central Government. The *Chief Executive Officer* of the *Food Safety and Standards Authority* is responsible for the implementation of the Act for the whole of India. Each state government appoints a *Commissioner of Food Safety* for the state [5]. The *Chief Food Authority* in Sri Lanka can be considered as parallel to the *Commissioner of Food Safety* in India. As described in Section 10 of the Sri Lankan *Food Act of 1980* (as amended in 1991), the Director General of Health Services is the *Chief Food Authority* for the entire country [6]. In Sri Lanka – being a unitary country - the *Chief Food Authority* is a central government post and responsible for the entire country; whereas, in India – being a semi-federal country – the *Commissioner of Food Safety* is a state government post and only responsible for that particular state.

Other than for the *Chief Food Authority*, Sri Lanka has another type of authority called the *Food Authority*. The Municipality is the *Food Authority* for Municipal Council areas. Other local

authorities (Urban Councils and Pradeshiya Sabhas) are *Food Authorities* for their respective areas but only if they are appointed by the Health Minister; otherwise, the Medical Officer of Health of the area is the *Food Authority* for those Urban Councils and Pradeshiya Sabha areas. Since the Minister has not yet appointed the Urban Councils and the Pradeshiya Sabhas as *Food Authorities*, the Medical Officer of Health is the current *Food Authority* for Urban Councils and Pradeshiya Sabha areas. In addition, the Excise Commissioner is the *Food Authority* in relation to food which is excisable within the meaning of the *Excise Ordinance* and the Principal Collector of Customs is the *Food Authority* in relation to food that is prohibited for importation under the *Food Act of 1980* [6]. The *Food Authority* in Section 10 of the Sri Lankan *Food Act of 1980* can be considered parallel to the *Designated Officer* in India. In terms of Section 36 of the Indian *Food Safety and Standards Act of 2006*, a *Designated Officer* is appointed by the *Commissioner of Food Safety* [5] and is responsible for administering the Act in his designated area.

Advisory Committee

Both legal systems have accepted that technical guidance is necessary to make regulations which are often based on technical facts. The Indian *Central Advisory Committee* is constituted by the *Food Safety and Standards Authority* according to Section 11 of the *Food Safety and Standards Act of 2006*. It comprises of experts in various fields directly related to food health. The *Chief Executive Officer* is its chairman. It provides technical advice to the *Food Safety and Standards Authority* that makes the regulations [5]. In Sri Lanka too, an *Advisory Committee* is established under Section 8 of the Sri Lankan *Food Act of 1980* and provides technical advice to the Minister of Health who makes the regulations. The *Chief Food Authority* – the Director General of Health Service - is its chairman [6]. Thus, the provisions on the Advisory Committee are similar in both countries.

Authorized Officers

While the authorities have the ultimate responsibility to ensure that the law is implemented, there should be officers to implement – to inspect and prosecute – the law. These are the *Food Safety Officers* in India and the *Authorized Officers* in Sri Lanka. *Food Safety Officers* are appointed under Section 29 of the *Food Safety and Standards Act of 2006* in India [5] and several categories of *Authorized Officers* are described in Section 13 of the Sri Lankan *Food Act of 1980* as amended in 1991. The Sri Lankan Health Minister may approve any Medical Officer of Health, Veterinary Surgeon, Food and Drug Inspector and Public Health Inspector as *Authorized Officers* [6]. Indian *Food Safety Officers* are appointed by the *Food Safety Commissioner* and do not need the approval of the Health Minister. Indian law has not specifically nominated any designated officers to be appointed as *Food Safety Officers*.

In terms of Section 29 of the Indian *Food Safety and Standards Act of 2006*, *Food Safety Officers* must exercise jurisdiction in their area [5]. Similar provisions are available in the Sri Lankan *Food (Miscellaneous) Regulations of 1984*, which stipulates that the *Authorized Officers* shall exercise their powers within the administrative area [6]. In addition, in accordance with Section 29 of the *Food Safety and Standards Act of 2006* in India, the *Commissioner of Food Safety* and the *Designated Officer* may exercise the powers conferred on the *Food Safety Officer* [5]. However, the *Food Authority* in Sri Lanka does not hold the powers of an *Authorized Officer* and cannot prosecute [6]. However, at present, a Medical Officer of Health in Sri Lanka can

function as both the *Food Authority* and *Authorized Officer* for Urban Councils and Pradeshiya Sabha areas.

Both legal systems expressly specify the powers of the *Food Safety Officers* – in the case of India – and *Authorized Officers* – in the case of Sri Lanka. Article 38 of the Indian *Food Safety and Standards Act of 2006* addresses the powers of the *Food Safety Officers*. The *Food Safety Officer* has the authority to collect, restrict and retain food, send samples for analysis, inspect, destroy food and prosecute any food establishment [5]. Section 14 of the Sri Lankan *Food Act of 1980* gives powers to *Authorized Officers* to enter into premises; carry out inspection of food, food establishments and food handlers; take food samples; open and inspect any container that he believes contains food; detain food; request information; destroy food and detain vehicles which he suspects to be carrying food. However, only the Medical Officer of Health as an *Authorized Officer* has been given powers to seize food and take abstracts from any documents [6]. Therefore, Sri Lankan law has placed Medical Officers of Health superior to other *Authorized Officers* like Food and Drug Inspectors and Public Health Inspectors. A similar objective is reflected in the Indian law as *Food Safety Officers* cannot seize documents without the approval of the Authority [5].

Before a prosecution, the officer needs to gather adequate information which he may have not found at the time of inspection of the food business/premises. Therefore, both legal systems have provided them with certain police powers as prosecution officers. Indian *Food Safety Officers* are vested with police powers according to the Indian *Criminal Procedure Code* [5]. Similarly, in terms of Section 13 [3] of the Sri Lankan *Food Act of 1980*, *Authorized Officers* are vested with powers of police officers according to the *Code of Criminal Procedure Act* [6]. Under Section XI of the Sri Lankan *Code of Criminal Procedure Act of 1979*, police officers are empowered to conduct investigations and to summon accusers. Thus, *Authorized Officers* have powers to investigate and summon accusers [12].

Any person who is suspected to have violated the law can be arrested without a warrant, according to Section 19 of the Sri Lankan *Food Act of 1980* [6] while such a provision does not exist in the Indian *Food Safety and Standards Act of 2006*. Therefore, Sri Lankan *Authorized Officers* seem to be more powerful than the *Food safety Officers* of India.

In India, *Food Safety Officers* who conduct inspections and prosecutions are directly responsible to the *Designated Officer*, in terms of Section 36 of the *Food Safety and Standards Act of 2006*. The *Designated Officers* are empowered to investigate complaints against *Food Safety Officers*. The *Designated Officer* should keep track of the activities of the *Food Safety Officers* (5). In Sri Lanka, *Authorized Officers* who conduct inspections and prosecutions are not explicitly responsible to the *Food Authority*. However, Section 13 of the *Food Act of 1980* introduces *Authorized Officers* as 'Authorized Officers of a Food Authority' which indirectly implies that the *Authorized Officers* are responsible to the *Food Authority* [6]. In addition, the *Food (Miscellaneous) Regulation, 1984* [13] – a regulation made under the Sri Lankan *Food Act of 1980* – also stipulates that *Authorized Officers* shall submit returns to the *Food Authority* if requested. However, there is no legal provision in Sri Lanka to investigate complaints against *Authorized Officers*. Therefore, *Food Safety Officers* in India are more strictly monitored than *Authorized Officers* in Sri Lanka. However, the head of the institution can investigate complaints

against *Authorized Officers* in accordance with the *Establishments Code* of the government service in Sri Lanka [14] as an administrative procedure but not as a legal procedure.

Registration of Food Business / Premises

Provisions on registration of food business or premises are available in both countries under the food law. India registers the business - a process – while Sri Lanka registers the premises – a location. Indian law requires all food businesses to be registered. Sri Lankan law provisions in this regard are not precise. In terms of Section 36 of the Indian *Food Safety and Standards Act of 2006*, all food businesses in the area must be registered under the respective *Designated Officer* of the area [5]. Similarly, all food premises in Sri Lanka must be registered under the respective *Food Authority* in terms of Section 7 of the *Food Act of 1980* - as amended 1991 [6,7]; however, that requirement is altered by the *Food (Registration of Premises) Regulation, 2019* [15] - a regulation - by restricting the registration to specific types of food premises. Sri Lankan registration provisions have been considered at court, where the Court of Appeal had upheld the lower court's decision on cancellation of the registration [16].

Being a commercial entity, a food business or premises may require registering with other non-health authorities under laws other than food laws. This had been argued at the Indian jurisdiction, where a bottled drinking water industry was ordered to be registered under the *Food Safety and Standards Act of 2006* irrespective of prior registration with the Bureau of Indian Standards [17]. Therefore, registering at another authority does not bypass the registration requirement under the food law.

If the food business fails to comply with a legal provision, the Indian *Designated Officer* can revoke the registration license [5]. In Sri Lanka, under Section 18, only the court can order the *Food Authority* to cancel the registration; hence, the *Food Authority* cannot cancel the registration on its own. However, the registration certificate in Sri Lanka is valid only for 2 years and the premises needs to be re-registered at the end of 2 years [15]; hence, the *Food Authority* in Sri Lanka is provided with the opportunity of reviewing the registration every two years.

Issuance of a Notice

Issuance of a notice provides an opportunity for an offender to correct the offence within a specific time without facing exasperating legal proceedings. In India, if a food business fails to comply with any regulation, the *Designated Officer* can issue a *Notice of Improvement* in accordance with Section 32 of the *Food Safety and Standards Act of 2006* [5]. However, the Sri Lankan *Food Act of 1980* does not have a provision to issue notices of any kind; therefore, the offender is liable for prosecution at the 1st instance.

Food Sampling

Food sampling is a critical technical procedure and is, therefore, well described in both legal systems. Section 3 of the Indian *Food Safety and Standards Act of 2006* defines a "food sample" as a sample of any food item whereas, the food sampling procedure is outlined in Section 47 [5]. The Sri Lankan *Food Act of 1980* does not define a 'sample'. However, the sampling procedure is set out in *Food (Miscellaneous) Regulations, 1984* as an amendment in 1999 [13]. The importance of food sampling was highlighted in the Indian jurisdiction. An order was given

to a Customs Officer to obtain samples of imported chocolate to decide on the suitability for human consumption [18]. In another case in India, a writ order was sought by the manufacturer against a ban as the manufacturer claimed that the food did not contain tobacco or nicotine; however, the court refused to do so and ordered the authorities to send samples for analysis [19].

In both countries, the officer who obtains the sample needs to give prior notice of his intention to the businessman. However, in India it should be done in writing [5]; whereas, the method of giving notice is not explicitly stated in Sri Lanka; therefore, verbal communication should be adequate. The sample has to be divided into portions in both countries. In India, the sample (for chemical analysis) is divided into four parts [5]; whereas, in Sri Lanka it is divided into three parts [6]. In India, one part must be sent to the *Food Analyst* and two parts to the *Designated Officer*. If the vendor requests, a portion should be sent to an accredited laboratory by the *Food Safety Officer* for analysis [5]. Notably, the Indian vendor does not receive a part of the sample. In Sri Lanka, one part out of three is given to the vendor and one is kept with the *Authorized Officer*, while the other is sent for analysis to the laboratory [6]. Unlike in India, the Sri Lankan *Food Authority* does not receive a sample. Thus, the legal systems differ not only in the number and but also in the possession of the samples.

The Indian *Food Safety and Standards Act of 2006* stipulates that each part of the sample should be marked and stamped and the signature or thumbprint of the person from whom the sample is taken is obtained. When such a person refuses to sign or place his thumbprint, the *Food Safety Officer* must call one or more witnesses and obtain their signature or thumbprint [5]. Sri Lankan law is slightly different as the owner's thumb print or signature is not a compulsory requirement and the *Authorized Officer* has to allow it if the owner demands to stamp his seal [6].

In India, if the test report is inappropriate, the *Designated Officer* must send one of the two samples in his possession to the laboratory and that result is considered to be decisive. Once the food analysis report is received, food that has been seized and not destroyed must be produced to the *Designated Officer* by the *Food Safety Officer* within seven days [5]. According to Sri Lankan law, food that has been seized does not have to be forwarded to the *Food Authority* and it is only necessary to inform the *Food Authority* immediately [6].

Food Analysis

The standard of the food analysis laboratories are a legal concern in India; whereas, it is not so in Sri Lanka. Reference laboratories and laboratories at which food samples are analysed, need to be recognized by the National Accredited Board of India in accordance with Section 43 of the Indian *Food Safety and Standards Act of 2006* [5]. In Sri Lanka, only the *Food Analyst* is recognized by the *Food Act of 1980* and not the laboratories. The Government Analyst and the Additional Approved Analyst (approved by the Health Minister) are the *Food Analysts* for the purpose of the Sri Lankan law [6].

In terms of Section 45 of the Indian *Food Safety and Standards Act of 2006*, the *Commissioner of Food Safety* may appoint qualified analysts who bear qualifications stated by Central Government to regional areas [5]. Section 17 of the Sri Lankan *Food Act of 1980* specifies the

qualification requirements of the Additional Approved Analysts and they are appointed by the Minister to the administrative areas of local authorities [6]. Accordingly, only qualified food analysts can be appointed in both India and Sri Lanka. In India they are appointed by the Commissioner of Food Security and in Sri Lanka they are appointed by the Minister. Both in India and Sri Lanka they should be assigned to regional administrative areas.

The role of the food analyst is slightly different between the two legal systems. Section 46 of the Indian *Food Safety and Standards Act of 2006* stipulates that the food analyst should compare and check the seal and outer cover of the pack: if any abnormality exists the food analyst must inform the *Designated Officer* within seven days and should request the second part of the sample. Other than that, the food analyst shall send four copies of the report to the Designated Officer within fourteen days from the date of receipt of any sample; therefore, the time period for the analysis is set. If the sample cannot be analysed within fourteen days, this shall be notified to the *Commissioner of Food Safety* and the *Designated Officer*. Further, appeals by the vendor against the food analyst's report must be forwarded to the *Designated Officer*. Then the *Designated Officer* can refer another sample in his possession to a standard laboratory [5]. The *Food (Miscellaneous) Regulations, 1984* in Sri Lanka, briefly outlines the functions of the food analyst. It states that if the food analysis is not compromised, the sample received should be divided in two and the part with the original label should be sent to the *Food Authority* with the analysis report [6]. Sri Lankan law does not state a time limit for the analysis or an appeal method. However, in accordance with Section 24 of the Sri Lankan *Food Act of 1980*, the vendor may request the court to send the duplicate sample - which is possessed by the *Authorized Officer* - to another laboratory; [6] even though, the law does not have an appeal procedure against the analyst's report.

Legal proceedings

There is a prominent difference in terms of the legal proceedings between the two legal systems. Section 42 of the Indian *Food Safety and Standards Act of 2006* stipulates that after examining the *Food Analyst's* report, the *Designated Officer* must determine whether a violation of the law is present or not. He should then send his recommendations to the *Commissioner of Food Safety*. The *Food Safety Commissioner* is given fourteen days to approve the lawsuit. If the case is to be filed, the relevant *Food Safety Officer* should file a case after such a communication is made [5]. Such higher approval for prosecution is not necessary in Sri Lanka, thus the *Authorized Officer* by his own decision can proceed with a legal action. According to Section 19 of the Sri Lankan *Food Act of 1980*, prosecution should be made in a Magistrate's Court for the stated offences. The case is to be filed only by an *Authorized Officer* and must be done within three months of detecting the offense or obtaining the sample [6].

Penalties

Penalties is the other area which is prominently different between the two legal systems. According to Article 59 of the Indian *Food Safety and Standards Act of 2006* a fine of up to Rs 100,000 with imprisonment of up to six months is imposed for violation of the provisions in the absence of damage to health. In the case of non-severe health injury due to a violation It is a fine of up to Rs 300,000 with up to one-year imprisonment and in the case of severe health injury a fine of up to Rs 500,000 with up to six years imprisonment is imposed. In case of death, a fine of not less than Rs 1,000,000 with imprisonment from between 7 years to life

is enforced [5]. Therefore, in Indian law the penalty depends on the harmfulness and the severity.

In terms of Section 18 of the *Sri Lanka Food Act*, if the offence affects the health of the public, the penalty is imprisonment - not less than 6 months and not more than three years - with a fine - not less than Rs 5,000 and not more than Rs 10,000. In addition, if the vendor obstructs an *Authorized Officer* or removes or modifies seized food, the penalty is imprisonment - not less than 3 months and not more than 1 year - with a fine of Rs 5,000 to Rs 10,000. Further, if the offence does not affect the health of the public, the penalty is imprisonment - not less than 6 months - or a fine between Rs 500 to Rs 3000 for the 1st offence. For a subsequent offence, imprisonment is for - not less than three months and not more than one year - with a fine of Rs 1000 to 5000. Furthermore, the court may revoke the registration for any subsequent offence and will notify the relevant *Food Authority* to cancel the registration [6]. Therefore, in Sri Lankan law, the main determinant of punishment is whether the offence is harmful to public health or not. In addition, Sri Lanka's law imposes a prison sentence if the health of the public is at risk. An imprisonment sentence of a Sri Lankan High Court was challenged in the Court of Appeal under the basis of inadequate evidence of previous records of similar offences. The court had dismissed the argument as it was not the reason for the appeal [16].

Discussion

A comprehensive definition of *food* is very important in a Food Act and is crucial to avoid overlap with non-food items. Inclusion of the word 'food' in the definition of food has led to confusion in the Sri Lankan context. Even though some inclusions are stated in the Act it has failed to state important exclusions and, therefore, it is questionable whether Ayurveda herbal products are foods or not. India has explicitly excluded drugs which potentially includes Ayurveda herbal products too. However, the differentiation between food and drug remains unclear in the legal context of both countries. Therefore, the food-medicine interface needs to be precisely clarified. As both western and Ayurveda drugs are registered by their respective authorities this registration can be taken as a criterion to differentiate food and medicine until a standard guideline becomes available.

Even though the Sri Lankan *Food Act of 1980* has been updated twice in 1991 and 2011 the 'designation terminology' is not yet fully updated. The term of a *Food Authority, Principal Collector of Customs* has not been amended yet to *Director General of Customs* which is the current designation.

Sri Lankan *Authorized Officers* need to be approved by the Minister of Health. Medical Officers of Health, Food and Drug Inspectors and Public Health Inspectors were approved by the Minister as *Authorized Officers* in 1999 [20], 19 years after the enactment of the *Food Act of 1980*. This implies that Sri Lankan *Authorized Officers* had been acted without legal authority from 1980 to 1999. Such an issue does not arise in India, as there is no necessity for approval of *Food Safety Officers* by the Minister. The Medical Officer of Health in Sri Lanka, being the administrative head of the Medical Officer of Health Office, has limited time to play the role of an *Authorized Officer*. On the other hand, the Minister has not yet approved the Veterinary Surgeon – in relation to inspection and seizure of meat – as an *Authorized Officer*; therefore,

they are unable to play their role stipulated by law. Further, the Public Health Inspector -an *Authorized Officer* – is not only engaged in food safety activities but also in school health, non-communicable disease, communicable disease, occupational health and environment health which inevitably compromises his role as an *Authorized Officer*. In contrast, the Indian *Food Safety Officer* only engages in food safety activities.

In India - similar to developed countries like Australia and New Zealand - it is the food business that needs to be registered, therefore, the same business can be continued in a different premise if one premise is not considered suitable to register. In contrast, it is the premises that needs to be registered in Sri Lanka; Even though all food premises in Sri Lanka must be registered under the *Food Authority* in terms of Section 7 of the *Food Act of 1980* - as amended 1991, the *Food (Registration of Premises) Regulations, 2019* [15] directs to register only selected food premises which is contradictory to the primary act. The legal principle is that the regulations should not contradict the primary act and, if it is contravened, the regulation becomes null and void. This confusion in the statutes negatively affects the efficiency of the entire registration process.

Both countries - as per their primary Acts - require mandatory registration of all food business/premises. It may not justifiable that a very small business like a mobile street vendor or a home based small entrepreneur should go through a relatively complex and expensive registration process. Developed countries like Australia and New Zealand allow selected small food businesses to notify only to the authority without registration which bypasses the relatively complex and expensive registration process.

The Indian *Food Safety Officer* is directly under the control of the *Designated Officer*. Any reported misconduct of the Indian *Food Safety Officer* is subject to investigation by the *Designated Officer*. Furthermore, prosecution cannot proceed without the approval of the *Commissioner of Food Safety*. However, in Sri Lanka there is no direct legal provision for the *Food Authority* to control the *Authorized Officer*, thus there is a possibility of potential misuse of the law by *Authorized Officers* due to lack of direct legal control by a superior authority.

Indian food laboratories are required to be accepted by the National Accreditation Board. Therefore, each and every laboratory is not suitable for this purpose. When a laboratory is accredited by the National Accreditation Board, their quality is guaranteed. Since the Sri Lankan *Food Act of 1980* does not recognize food laboratories, food samples can be analysed in any laboratory where an approved analyst is available. Currently the Government Analyst's Laboratory and the Food and Water Microbiology Laboratory of the Medical Research Institution are accredited in Sri Lanka but there are no other laboratories where Additional Government Analysts are available. Reports from an unaccredited laboratory may be lacking in accuracy and have the potential to be challenged in the court. Unlike under Indian law, the Sri Lankan law does not provide the analyst with a maximum time limit to provide the report. On the other hand, as per Section 20 of the Sri Lankan *Food Act of 1980* prosecution is not possible if the sample report is delayed more than 3 months after obtaining the sample – a concept based on the legal principle of *prescription*. Therefore, the absence of a time limit within which the report should be provided is a potential barrier for prosecutions.

Sri Lanka's penalties are very low compared to the Indian law. It is important to note that every offence under the Indian *Food Safety and Standards Act of 2006* warrants imprisonment. However, in the case of a minor offence, which is unlikely to cause health effect, the penalty of imprisonment may not be justifiable. India has overcome that injustice by allowing the issue of a *notice of improvement*.

Conclusions and Recommendations

1. The Sri Lankan legal definition of *food* is not precise and is, therefore, not able to differentiate food from non-food items which enter the human body through the mouth. The term 'food' needs to be clearly defined with adequate inclusions and exclusions. The food – medicine interface needs to be clarified based on local legislations and food habits.
2. Sri Lankan Veterinary Surgeons – as experts in the field of meat and meat products – can contribute to ensure meat safety through legal provisions; however, they are currently not able to do so as they are not approved by the Health Minister. Both the Health and Veterinary Departments need to take the necessary steps to expedite their appointment as *Authorized Officers* by the Minister.
3. Medical Officers of Health (MOH) play a minimum role as *Authorized Officers* due to their heavy workload. Appointing Additional Medical Officers of Health (AMOH) as *Authorized Officers* and allocating one Authorized Officer only for food safety activities in each MOH area would improve the food safety activities in Sri Lanka.
4. Lack of direct legal control over Sri Lankan *Authorized Offices* has led to potential misconduct of *Authorized Officers*. Therefore, more monitoring and investigative powers need to be given to *Food Authorities* and the *Chief Food Authority* in order to ensure that the food law is properly implemented as expected.
5. In Sri Lanka, the current food premises registration process is vague due to lack of legal integrity and consistency in the relevant regulations; therefore, the regulations need to be amended to ensure a smooth registration process.
6. Most of the food analysis in Sri Lanka is done at un-accredited laboratories which is a potential threat to food safety. All food laboratories need to be accredited based on national and international standards.

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