

FOOD-RELATED LEGISLATION IN BANGLADESH

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Facts and Figures

- About one-fifth of the country's 160 million people cannot afford an adequate diet
- Global Hunger Index (GHI) lists Bangladesh as the 68th hungriest nation among 93 countries meaning that the country's hunger still remains within 'alarming' range
- According to the World Food Program (WFP), nearly half (45%) of the country's population is food insecure (<2122 kcals/person/day), and nearly one-quarter (23.9 percent) of the population is understood as severely food insecure (consuming less than 1805 kcals/person/day)
- Due to malnutrition, 41% of the country's children were found stunted in 2011-12 while 36% of them were underweight
- Almost 40% of people in rural Bangladesh live on less than \$1.25 per day and 60% of that income is spent on food
- Population is increasing by 1.8 million every year and is expected to increase to 185 million by 2020 and 222 million by 2050.
- Rice production has to increase by 4 lakh tonnes every year to meet the need for staple food for the growing population

Key Challenges

□ On supply side -

- Arable land has been shrinking by 0.6% every year due to demand from housing and industries, and infrastructures, as well as loss of land from river erosion
- With global warming and climate change, another one-sixth of the land may be submerged with brackish water due to SLR
- The on-going climate has made the monsoon more erratic, raising risks in food production
- The soil fertility has been declining due to overexploitation of soil nutrients and imbalanced use of fertilizers
- The ground water aquifer has been going down from over-mining for irrigation

□ On demand side -

- rapid urbanization
- population increase

Major Concerns

- physical and economic access to adequate amounts of nutritious, safe, and culturally appropriate foods
- people who produce food are not able to earn a decent, living wage
- price hike and people's ability to pay
- unhygienic and unfair practices in food making, handling, processing, etc.
- use of formalin and other hazardous chemicals injurious to human health
- other food adulterations

International Laws Recognizing Human Right to Adequate Food

- Universal Declaration of Human Rights, 1948
- International Covenant on Economic, Social and Cultural Rights, 1966
- Universal Declaration on the Eradication of Hunger and Malnutrition, 1974
- The Convention on the Elimination of All Forms of Discrimination against Women, 1979
- The Convention on the Rights of the Child, 1989
- 1996 World Food Summit
- The Commission on Human Rights in its resolution 2000/10 on the right to food
- The Millennium Development Goals (MDG) adopted in 2000 sets target to eradicate extreme poverty and hunger by 2015
- In 2004, FAO adopted the Right to Food Guidelines, offering guidance to States on how to implement their obligations on the right to food.
- The Convention on the Rights of Persons with Disabilities, 2007
- In 2012, the Food Assistance Convention was adopted, making it the first legally binding international treaty on food aid

Food in the Constitution

- **Explicit recognition of right to adequate food in the Constitution by 7 countries –**
 - Congo (Art. 34)
 - Ecuador (Art. 19)
 - Haiti (Art. 22)
 - Nicaragua (Art. 63)
 - South Africa (Art. 27)
 - Uganda (Art. 14) and
 - Ukraine (Art. 48)
- **10 countries recognize it as responsibilities of the state -**
 - Bangladesh (Art. 15)
 - Ethiopia (Art. 90)
 - Guatemala (Art. 99)
 - India (Art. 47)
 - The Islamic Republic of Iran (Arts. 3 & 43)
 - Malawi (Art. 13)
 - Nigeria (Art. 16)
 - Pakistan (Art. 38)
 - Seychelles (Preamble) and
 - Sri Lanka (Art. 27)

The constitutions of Brazil (Art. 227), Guatemala (Art. 51), Paraguay (Art. 53), Peru (Art. 6), and South Africa (Art. 28), recognize the right of children to adequate food and nutrition.

Food in the Constitution of Bangladesh

Recognizes it as one of the fundamental principals of the State Policy -

- **Article 15(a)** recognizes the fundamental responsibility of the state to secure its citizens the provision of the basic necessities of life including food
- **Article 16** enumerates that rural transformation has to be brought through the agricultural revolution
- **Article 18** states that the State shall raise the level of nutrition and improve public health as its primary duties
- **Articles 31 and 32** enshrine the 'right to life' and personal liberty as a fundamental right
- **Article 27** recognizes equality before law

All these have little meaning if there is no adequate access to food and water

Laws & Policies Reviewed

- *Basic Laws on Food* - 11
- *Laws relating Crop Agriculture* - 15
- *Laws relating Non-Crop Agriculture* -10
- *Laws on Land Use, Administration and Management* - 6
- *Policy and Planning Frameworks* - 10

Salient Features of Basic Laws

- ***The Penal Code, 1860*** - Adulteration of food or drink and sale of noxious food or drink has been described as offences punishable with imprisonment for six months, or with fine which may extend to one thousand taka, or with both
- ***The Essentials Articles (Price Control and Anti-Hoarding) Act, 1953; The Control of Essential Commodities Act, 1956 and The Essential Commodities Act, 1957*** - These acts define foods as an essential commodity and provide provision to control food price, production, treatment, keeping, storage, movement, transport, supply, distribution, disposal, acquisition, use or consumption and trade and commerce

Salient Features of Basic Laws (Contd...)

- ***The Pure Food Ordinance, 1959 as amended by the Bangladesh Pure Food (Amendment) Act, 2005*** –
 - defines food
 - prohibits manufacture or sale of food not of proper nature, substance or quality; sale or use of poisonous or dangerous chemicals, intoxicated food colour; keeping adulterants in places where food is manufactured or sold; sale of diseased animals and unwholesome food intended for human consumption; use of false labels and false advertisement
 - appoints Public Analysts of Food
 - constitutes a 16-member National Food Safety Advisory Council
 - provides for an Inspector
 - has provision for establishing Pure Food Court

Salient Features of Basic Laws (Contd...)

□ ***Bangladesh Standards and Testing Institution Ordinance, 1985 as amended in 2003 and the Rules 1989 made there under –***

- provides for the establishment of an Institution for standardization, testing, metrology, quality control, grading and marking of goods
- there are currently 151 standards covered by BSTI of which 58 are food standards
- enforcement of standards includes removal from market of non-standard products

Salient Features of Basic Laws (Contd...)

□ ***The Consumer Rights Protection Act, 2009 –***

- states activities that are against consumer's rights
- provides for the establishment of Consumer Right Protection Council
- establishment of District Committee, Upazila Committee and Union Committee
- establishment of a Department to be headed by DG

The New Draft Food Law

- approved in principle by the cabinet on July 1, 2013
- proposes formation of a National Pure Food Management Advisory Council, headed by the food minister and comprising members from different ministries and government, private and academic agencies
- seeks to form a unified authority - Bangladesh Food Safety Authority (BFSA), comprised of a chairman and five members
- proposes forming as many food courts as deemed required to try the adulterators
- proposes including over 200 food commodities
- proposes higher punishment/penalties

The New Draft Food Law (Contd...)

- lacks in providing a comprehensive definition of food, incorporating the nutrition aspect to it
- imposes some conditions for banning GM food
- ensures legal actions against only the people who produce lethal food items but fails to prescribe punishment against those producing unhygienic food items unless these cause death to people
- no provision related to people's right to food including accessibility and affordability of food

Policy and Planning Frameworks

□ **National Food Policy, 2006**

Objective 1 – adequate and stable supply of safe and nutritious food

Objective 2 – increased purchasing power and access to food of the people

Objective 3 – adequate nutrition for all

□ **National Food Policy Plan of Action (2008-2015)** – identifies 26 strategic areas of intervention and priority actions and forms 4 bodies to formulate and implement

Food Planning and Monitoring Committee

Food Policy Working Group

Food Planning and Monitoring Unit

Thematic Teams

□ **The Country Investment Plan 2010**

Institutional Setup

□ **Governed by a number of different government institutions taking responsibility under different legislation**

- Ministry of Agriculture
- Ministry of Commerce
- Ministry of Education
- Ministry of Environment & Forest
- Ministry of Finance
- Ministry of Fisheries and Livestock
- Ministry of Food and Disaster Management
- Ministry of Health & Family Welfare
- Ministry of Home
- Ministry of Industries
- Ministry of Information
- Ministry of Law
- Ministry of LGRDC
- Ministry of Public Administration
- Ministry of Science and Technology
- Ministry of Social Welfare

Drawbacks in the Legal and Regulatory Framework

- Multiplicity of laws
- Aged-old laws falling short to address the challenges related to various of aspects of food
- Inadequacy of penalties
- Implementation and enforcement
- Legal recognition of right to food
- Non-coordination and overlapping of regulatory bodies

Recommendations

- Constitutional amendment to guarantee the legal right to access food or right to be free from hunger
- A coherent and efficient national legislation should be developed covering all dimensions of food
- Laws should also be amended providing the higher penalties for the wrongdoers
- Enforcement services need to be strengthened by including adequate trained personnel and expertise
- Establishment of adequate Food Courts
- Establishment of adequate and well equipped national laboratories operated by trained analysts utilizing standard methods
- Safety net programs need to be expanded to the landless, marginal farmers and food insecure people in the urban and disaster-prone areas
- Public awareness needs to be raised
- To ensure food justice there must be political will to fairly distribute food regardless of the recipient's ability to pay