

PUBLIC HEALTH AND FACTORY FARMING: ISSUES AND LAWS

LAWS RELATING TO PREVENTION OF
CRUELTY TO ANIMALS II

Why do we speak about public health, in animal protection?

How can we understand the dangers of factory farming, using lens like the environment, public health and labour lens?

After our one hour session, how can we integrate public health laws in our advocacy towards animal protection, and in particular, towards abolishing animal cruelty in industrial animal agriculture?

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Industrial food animal production involves high throughput animal husbandry, in which thousands of animals of similar genotypes are raised for one purpose with rapid population turnover at one site under highly controlled conditions, often in confined housing, with nutrient⁰¹ dense, industrial feeds replacing access to forage crops.

These intensified farm animal production (IFAP) facilities are high throughput farms that house thousands of animals of a single breed for a single purpose, often in indoor and confined conditions, and now supply the majority of meat and poultry products to the global market, replacing traditional, small, independently owned and operated farms.

Prevalence of Intensive Animal Agriculture In India

India's poultry industry has become rapidly industrialized. Today in India the poultry industry is one of the country's fastest growing sectors, and broiler facilities with less than 5,000 birds are becoming rare. Most broiler and layer facilities house between 10,000 and 50,000 birds.

According to the Food and Agriculture Organization of the United Nations, India is the third largest producer of eggs in the world producing more than 65 billion eggs.

More recently, the total eggs produced across the country crossed a 100 billion eggs in 2019, as compared to 16 billion eggs produced thirty years ago, in 1986. Overwhelmingly, in intensive factory farming systems, globally. Now, about 15 billion of them are broiler meat chickens. And the other 8 billion, roughly, are layer hens. There are another, roughly, 6 billion land mammals that are being being confined.

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The rate of emergence of new infectious diseases is also rising, and 75% of them are zoonotic in nature.

During the period from 1990 to 2000, three out of four emerging pathogens capable of causing human infection originated from animals or animal products

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Avian influenza outbreaks have been reported in poultry farms in India every year since it was first reported in a poultry farm in Maharashtra in February 2006.

Poultry, poultry meat and eggs also can act as a bacterial vector, particularly in the case of Salmonella. The prevalence of Salmonella in poultry is particularly troubling in India, given that most poultry IFAP facilities are located in urban areas

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Intensive animal agriculture also contributes majorly to the total global greenhouse gas ("GHG") emissions from livestock, which is more than 14% of the total global GHG emissions .

It was found that the overall national GHG emissions associated with Indian diets are greatest for livestock products like milk and eggs, because these are widely consumed products with high GHG emissions per unit of product.

Public Health

The World Health Organization (WHO) defines “Health” as a state of complete physical, mental and social well-being, in addition to an absence of disease.

The WHO goes on to add that it is the obligation of the State to ensure uniform access to “timely, acceptable and affordable healthcare of appropriate quality as well as to provide for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality” to all its people.

Under the Indian Constitution, Right to Health is not expressly mentioned, but has been interpreted by the Hon’ble Supreme Court to be a part and parcel of the fundamental Right to Life and Liberty under Article 21 of the Indian Constitution. Therefore, the Right to Health is inseparable from the fundamental right to life guaranteed to all natural persons in India.

Conversely, the Indian Constitution makes it a primary duty for the State to raise the level of nutrition, standard of living and to improve public health, under Article 47.

Examining egg production in India and Public Health I

One of the fastest growing models of intensive animal agriculture is the egg production sector in India, the third largest producer of eggs in the world. India has a population of 319 million egg-laying hens.

The fundamental right to life in India has also been expanded to include Five Freedoms for animals, read with Sections 3 and 11 of the Prevention of Cruelty to Animals Act, 1960. Under these provisions, it is a criminal act of cruelty to confine an animal in a cage or receptacle without reasonable opportunity for movement.

Eggs obtained from poultry vendors across the Mumbai region in 2019, were found to have the potential to put the health of consumers at risk. The study was conducted in order to understand the prevalence of multi-drug resistant *Salmonella* strains found in these eggs. Biochemical tests were used to confirm the pathogen to be *Salmonella*.

In a 2018 study, eggs from urban retail outlets and directly from poultry farms in and around Hyderabad were found to contain diarrhea causing bacteria (*shigella*) on shells and inside the eggs. Pathogens such as *e-coli* and *salmonella* amongst others were found in another study in Hyderabad.

Examining egg production in India and Public Health II

The NEERI Report on Poultry farms studied the heavy metal composition of the waste at several farms and found almost double the tolerable content of Lead in the excreta slurry in all farms, apart from half the farms surveyed showing higher Iron content than recommended limits. The excreta slurry is periodically (once in 4-5 months) taken away by the local farmers for use in their farms as compost. Approximately 35-40 trolleys of compost are taken away by them (compost in 150 ft³ of land is carried in one trolley). Consumption of vegetables with elevated levels of heavy metals may lead to high levels of body accumulation causing related health disorders.

The study in Varanasi India found heavy metal contamination in vegetables grown in wastewater irrigated areas. It further suggested that Cadmium, Lead and Nickel contamination in most of the test vegetables had potential for human health risk due to consumption of plants grown in the area having long term uses of treated and untreated wastewater for irrigation. 84 The NEERI Report also found considerably high levels of nitrate at all the poultry farms studied, whereas high levels of TDS at the caged facilities.



Right to Health under the Indian Constitution



Article 21 :

Article 21 has also been linked to India's international obligations under Article 12 of the International Covenant on Economics, Social and Cultural Rights, 1966. It lays down the right to the highest attainable standard of holistic health and the steps that the parties to the covenant must take to recognize and realize this right.

In **Centre for Public Interest Litigation v. Union of India and Ors. WRIT PETITION (CIVIL) NO. 681 OF 2004**, the Supreme Court emphasized that that any food article which is hazardous or injurious to public health is a potential danger to the fundamental right to life guaranteed under Article 21 of the Constitution of India.

The Apex Court, in **Vincent Panikurlangara v. Union of India** , read Article 21 and Article 47 harmoniously, and observed that the maintenance and improvement of public health were indispensable to the physical existence of the community. The Hon'ble Bench went on to state that "Attending to public health, in our opinion, therefore, is of high priority-perhaps one of the top".



In **Sodan Singh v. New Delhi Municipal Committee** , a five-judge bench of the Apex Court differentiated the concept of life and liberty under Article 21, from the right to carry on any trade or business conferred by Article 19(1)(g). The Court, in this matter, held that the right to carry on in any business or trade, is not included in the concept of the right to life and personal liberty. By rendering this decision, the Supreme Court effectively stated that placing reasonable restrictions on the right to carry on a trade and profession, or disallowing certain professions, or restricting areas to carry on such a profession, based on larger public interest, did not violate the trader's right to life, or personal liberty.

Article 19(1)(g) :

Right to Freedom of Trade and Profession

Article 21 has also been linked to India's international obligations under Article 12 of the International Covenant on Economics, Social and Cultural Rights, 1966. It lays down the right to the highest attainable standard of holistic health and the steps that the parties to the covenant must take to recognize and realize this right.

In multiple instances, where there has been a conflict between the right to carry on a trade or profession, under Article 19(1)(g) and the right to life, under Article 21, the Supreme Court has emphasized on the former, being subjected to reasonable restrictions, as per the Constitutional text.

In the case of **Burrabazar Fireworks Department and Ors. v. Commissioner of Police**, the Supreme Court was tasked with adjudicating the question of balancing the fundamental right to practice any profession, under Article 19(1)(g) with the fundamental right to health, under the ambit of Right to Life, under Article 21. The Supreme Court held that the right to practice and carry on a profession, trade or business was subjected to reasonable restrictions, and clarified that Article 19(1)(g) does not guarantee any freedom at the cost of the community's or individual's right to safety or the right to live a healthy life, which is guaranteed under Article 21.

Food Safety Standards

In the preamble to the Food Safety and Standards Act, 2006, the mandate of the Food Safety and Standards Authority of India (FSSAI) is to ensure availability of safe and wholesome food for the citizens of the country.

FSSAI (Food Safety and Standards Authority of India) and the CDSCO (Central Drugs Standard Control Organization) under Directorate General of Health Services, Ministry of Health & Family Welfare, and other Indian governmental agencies are given the authority to regulate and power to restrict poultry farmers from dispensing antibiotics to serve as growth promoters.

The OIE has codified an International Animal Health Code (IAHC) for import and export of animals and animal products including milk, eggs, meat and other products and by-products, which include guidelines on the welfare of animals under Chapter 7. The provisions of the OIE are binding on member countries for the purpose of international trade in animals and animal products.

It was noted that the movement and transportation of animals from one part of the country to another had become faster due to technology, thus directly impacting the spread of contagious diseases.

Therefore, enacting suitable legislation under Article 253 of the Constitution for the prevention of infectious and contagious diseases in animals was necessary to make law uniform throughout the country.

The Prevention and Control of Contagious and Infectious Diseases Act, 2005 was acting on the need to effectively control and contain infectious and contagious animal diseases including zoonotic diseases and thus prevent the spread of such diseases.

Transport of Animals

here are certain conditions regarding the transportation of animals that are dealt with under Rule 96 and Rule 98 of the Transport of Animal (Amendment) Rules 2001.

Rule 96 lays down that before transportation of any animal, a valid certification has to be procured from any animal welfare organisation, duly authorised by the Animal Welfare Board of India for the purpose of certifying that all the rules and orders pertaining to the said animals, as notified by the state and central government, have been duly complied with.

Under Rule 98, animals should only be transported when they are healthy. Any unhealthy or unfit animals should be examined by a veterinary doctor to ensure that it is free from any infectious disease.

Diseased animals should be kept separately from other animals during treatment. Under the Rules, there are different rules for transportation of different categories of animals.

Transporting or carrying animals in any vehicle, in any manner or position, that causes discomfort, pain or suffering is a punishable offence under two central Acts, the Prevention of Cruelty to Animals (Transport of Animal on Foot) Rules 2001 and the Motor Vehicles Act 1978.

269th Law Commission Report : Takeaways for Public Health

UNDER SECTION 3 OF THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1960, THE DUTY OF CARE IS IMPOSED ON THE PERSON HAVING CHARGE OF THE ANIMALS.

RULES 16 TO 19 UNDER THE REVISED DRAFT BILL (2017) RELATE TO THE STATUTORY MANDATE OF DUTY OF CARE PLACED ON THE OWNER/OPERATOR/CARE-TAKER OF THE BIRDS.

TO ENSURE THE HEALTH OF THE BIRDS AS WELL AS TO SAFEGUARD PUBLIC HEALTH, THE FARM OPERATOR IS RESPONSIBLE TO REPORT IMMEDIATELY ANY OUTBREAK OR SUSPECTED OUTBREAK OF ANY ZOOONOTIC DISEASE OR INFECTION OR CONTAGIOUS DISEASE TO THREE INSTITUTIONS : THE LOCAL AUTHORITY, THE STATE BOARD AND THE STATE GOVERNMENT. TO FURTHER ENSURE THE HEALTH SAFETY OF THE HENS IN THE FARM, THERE MUST BE AT LEAST ONE ROOM OR ENCLOSURE IN THE FARM TO QUARANTINE SICK OR SUSPECTEDLY SICK BIRDS.

UNDER RULE 6, THE RESPONSIBILITY OF THE COMPANY ENGAGED IN POULTRY FARMING HAS BEEN DETAILED. IT LAYS DOWN THE ONUS ON PARTICULAR POSITIONS OF RESPONSIBILITY, SUCH AS THE CEO, PRESIDENT OR HIGHEST-RANKING EMPLOYEE, WHERE THE FARM IS OWNED BY A COMPANY TO ENSURE THE COMPLIANCE AND ADHERENCE OF THE RULES IN THE BILL. WHERE THE FARM OPERATES AS A CONTRACT FARM BETWEEN A COMPANY AND FARMERS, WHERE EQUIPMENT IS PROVIDED TO THE FARMERS IN RETURN FOR PROVIDING EGGS, THE ONUS IS SPLIT EQUALLY BETWEEN THE FARM OWNER AND THE COMPANY.