

Food Safety and Standards Bill:

Whose interests does it protect?



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Centre for Science and
Environment, New Delhi



Food safety and standards act

Three questions:

- Does the proposed act **protect** the safety and health of consumers?
- Does the proposed act **promote** the interests of small producers and farmers to participate effectively in the business of food?
- Does the proposed act **improve** on the shortcomings of the current food regulations and enforcement?



New imperatives of food safety

- **1. Regulation of the modern-business of food process to ensure**
 - a. Consumer **safety** (quality);
 - b. Consumer **health** (toxins, contaminants)
 - c. Consumer **nutrition** (ingredients, additives)
- 2. Regulate the traditional business of food for safety and adulteration.**



Health: business of food



- Business of food is changing. Processed food industry is now part of our daily diet. And will grow.
- NSS 59th round March 2005 finds that in rural areas person spends just **Rs 10 on fruits** but **Rs 25 on beverages, refreshments and processed food.**
- The total money spent each month in rural India is Rs 1,854 crore, while Rs 1,770 crore per month is spent by urban India. **Needs regulation. Because it concerns health.**



Bad health growing in our world

No place safe

Death caused by communicable and non-communicable diseases (Figures multiplied by 1,000)

Country	Communicable diseases	Non communicable disease
Africa	7,779	2,252
The Americas	875	4,543
Eastern Mediterranean	1,746	2,030
Europe	567	8,112
South East Asia	5,730	7,423
West Pacific	1,701	9,000

Source: Presentation by Robert Beaglehole, director, health promotion, surveillance, prevention and management of ncdis, WHO. Presentation based on World Health Report 2003.

- **WHO says obesity growing. Diabetes, hypertension, heart..weak bones..called NCDs.**
- **India ..top country affected by diabetes..**
- **Cost of healthcare expensive. Need to regulate food business for nutrition.**



Bad food linked to bad health

- **All research shows that bad food-lifestyle indicted.**
- **Sugar-fat rich food is responsible for obesity related diseases..**
- **WHO says: high and increasing consumption of sugar sweetened drinks by children is serious concern. Each additional bottle each day increases risks of becoming obese by 60 per cent...**



WHO wants governments to take charge..



- **Wants sugar to be restricted to 10% of daily diet.**
- **Wants governments to stop giving incentives to unhealthy food..**
- **Wants industry to limit levels of saturated fat..sugar in products.**



Business is powerful. Needs regulation

- WHO says food advertising targeting children must be restricted.
- Fast food-beverages classified as ‘**eat least**’ in dietary guidelines are heavily marketed. In 1997 manufacturers spent US\$ 11 billion on “eat least” category.
- For every dollar spent on nutrition education, food industry spends US\$ 5000 on advertising .
- **Government has to regulate food business**



Health: changing dangers

- Regulation for unsafe food must take into account:
- **Acute impact:** Visible immediate problems (bacteria, viruses and parasites etc) and adulteration by poisons etc);
- **Chronic impact:** Long term triggers of bad health (tiny doses of pesticides, heavy metals, antibiotics, industrial chemicals).



Defining what is safe food?

- Regulation is about defining safety?
- Take soft drinks? What government lab found safe? CSE lab found unsafe?
- How safe is safe?



"Companies say: "We are safe: Aamir drinks it"

"... all these (soft drinks) are well within the safety limits..."

Smt. Sushma Swaraj, Hon'ble Minister of Health & Family Welfare (Lok Sabha, 21 Aug., 2003)

Refresh your faith.

Now, refresh your thirst.

Safe for consumption

OUTLOOK magazine and The Central Science Laboratories, the most respected lab in London, have given Coca-Cola a clean chit.

ককাকোলাকে 'ক্লিন চিট' দিল কোকাকোলাকে

Govt thumbs-up to cola cos

কোক-পেপসি নিয়ে ইতিবাচক রিপোর্ট মুহূর্তেই হাই কোর্টের

Fizz cola: It's safer than milk

Safety Norms: Thumbs Up vs Other Foods

	EU Pesticide limit (mg/kg)	Thumb Up (as per CFTRI)	Now Thumb Up compares
MILK/CREAM	0.005	0.001	2070 times safer
EGGS	0.01	0.001	4530 times safer
BOVINE MEAT	0.01	0.001	10070 times safer
APPLES	0.01	0.001	77000 times safer

Gujarat gives colas clean chit

মদ্র নে কক কো কলীন চিট দিয়া

কোকাকোলাকে ছাড়

Thumbs Up



Defining safety

- Safety is about managing the **poison-nutrition** trade-off (we ingest poison to get some nutrition..)
- But this poison must be within safe exposures. Therefore, safety requires setting **standards** for the food basket.
- Safety is all about meeting and adhering to a given **standard**.



Designing standards

- **Food safety is about what we eat.**
- **Define how much toxin is allowed in food so that exposures is safe..**
- **Differentiate between essential and nutritious food and non-nutritious food.**
- **Can allow pesticides (in safe measures) in juices and in milk (because it is part of food basket)..**
- **But cannot allow pesticides in soft drinks and other non-nutritious items.**



What regulations must do

- Ensure that food standards are **health** based.
- Standards are set to stay below the safety threshold (the acceptable daily intake).
- Standards are set for the **finished** (food on the table) products so that consumers rights are protected.
- Standards differentiate between nutritious and non-nutritious
- There are stringent provisions for ensuring quality control and food safety by **food business.**



Why is this important?

- **For our health..**
- **For ensuring that imports of food into India do not destroy our people's health (we import more than we export). We must not become **dumping ground** for other's junk.**
- **For ensuring that our exports are not compromised. This is a **sunshine industry**. Must become the kitchen-of-the-world (Thailand) by ensuring credible standards.**



Critique of Act: does not add up

**The bill dilutes even the existing law – PFA --
as far as consumer safety is concerned:**

- 1. Preamble says its objective is to: “lay down
science based standards” All other
countries say **health-based** safety standards**

**Why? Because good-science cannot be
defined (take tobacco).
But good health is a societal value.**



It dilutes consumer protection

The definition of safety crucial for regulation.

2.The bill has changed the very definition of adulterated food “unsafe’ food: (see section 3.zz) to remove a critical clause that if any food does not meet the **stipulated standard** it is unsafe.



It has loopholes and loopholes

3. Has convoluted definitions and created new ones so that consumers will find it difficult to prove what is adulterated, what is unsafe and what is not.
 - For instance: **contaminant** (g) means what is not added but may be present in food as a result of production... **extraneous matter** (i) means any matter which may be carried from raw material...but does not render food unsafe.



Loopholes protect the big

4. Says no article of food can contain contaminants in excess of quantities specified by regulations (see section 20).

But does not say that this will render the food 'unsafe' or adulterated.

Graded penalties provided. But no penalty for food with contaminants.

Food containing contaminants (pesticides and heavy metals) is not defined as not meeting stipulated standards.

No company can be held accountable.



Will make defenseless

- For instance in UK, when the Coca Cola bottled water was found to exceed one contaminant standard asked by regulators to withdraw more than 5 million bottles from the market.
- We could not do it because our act was bad, UK could because it had good law in place.
- New act even worse. Make us 2nd-3rd grade citizens.



It has escape clauses everywhere..

- **5. Take just this one instance; Recall of batches**
- **Where any food fails to comply with food safety requirements is part of batch, lot or consignment...it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements (section 18.g)**
- **Section 26.5: Where any food which is unsafe is part of a batch, lot or consignment of food...it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe.**



Whose interests does it protect?

- No clause that standards will be set for final product;
- No clause that standards will be based on health criterion taking into account the acceptable daily intake.
- No clause that standards if not met will be liable for penalty and food will be deemed to be unsafe.
- **Does not serve interest of consumer health.**
- Whose interests then?



Whose interests

- 2 critical new clauses added in this bill:
- 1. **Primary food included in definition of 'food'.**
Important to note that this was added in the very last draft presented to you. Why?
- FSSB (draft as of July 2005) said that food shall not include any article of food, being a produce of agriculture or horticulture or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching *in the hands of a person other than a farmer (definition of primary food)*.
- FSSB (current draft)
- "food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes **primary food**....



Interests..

- **2. Food retailers, hawkers, itinerant vendors, temporary stall holders explicitly included.**
- **Why?**
- **Because big industry (see CII presentation of the integrated food bill) asked government to bring these sectors into the legal net. It says these people are the real problems...they produce adulterated, unsafe food. It is raw material that is a problem. We cannot be held responsible...**



Who is a problem? Who is solution?

- India is currently afflicted with ‘growth without job syndrome’.
- It is also clear that big industry is incapable of providing jobs. Jobs are created by the small producers.



Law has to differentiate

- Indian food business is multi-layered - from small hawker and small manufacturers to five-star hotels and multinational companies – and they cater to a multi-layered consumer.
- Small food business critical. Different health problems of small and big.
- Law must differentiate. Must regulate both. Differently.



Proposed act protects big. Will finish small

- **Proposed act uses consumer protection and food safety concerns to keep the ‘inspector raj’ for small manufacturers.**
- It does this by;
- A. Diluting all provisions, which would regulate the quality and safety of large producers in the consumers;
- B. It brings into its ambit, primary food – so that all problems of quality are blamed on the raw material – and not on the processed food.
- C. it keeps intact the regulatory framework of the PFA which will impact small manufacturers and vendors.



Differentiated against small

- 1. Incentives and penalties should be in proportion to the scale of the business.



In proposed bill, graded penalties provided from Rs 1-3 lakh..

- This will affect small food business. But hardly a deterrent for non-compliance for big companies.
- **Penalties needs to be restructured to reflect the scale and size of the business. Japan links penalties with the annual turnover.**



Fair or unfair?

2. Clause 69 (Power to compound offences), gives power to the food inspectors to impose fine of up to Rs. 1 lakh on petty manufacturers, hawkers, retailers etc. if he/she has a **reasonable belief** that the petty manufacturer has committed an offence.

But companies given improvement clause – time to improve, if problems of safety found.

Also clause related to offences by companies weakened as compared to PFA. (Clause on *forfeiture of property dropped.. PFA also said that it will not be a defence to say that the vendor was ignorant of the nature, substance or quality of the food sold to him.* **Dropped**)



Old act in new bottle

- **All clauses which concern conventional “adulteration-hygienic” same or tougher than PFA. New category of small food business included.**
- **But all clauses that concerned big business made weaker.**
- **New clauses needed to regulate big business and new toxins and food concerns not included.**
- **Why? Who has drafted this bill? Government or big companies????**



Improving governance? Current problems

- A. Food **standard-making systems** need expertise on health and food-science;
- B. **Enforcement** needs new tools of information and data collection (name and shame);
- C. Enforcement needs more **capacity**. JPC had observed that there is no proper enforcement mechanism for regulating food laws. The number of samples drawn as well as the Inspectors are almost negligible. This needs to be suitably augmented (**JPC 4.57**)
- D. **state level capacity** needs improvement;
- E. **Laboratories needed** for analysis in the public interest at all levels.



What should we do?

- Globally food safety authority have internal research, scientific and technical skills to drive the process of standard development process.
- External experts, including consumer organisations, NGOs, health experts, lab experts etc. are bought in to add value the internal work and improve it further.
- Industry representation is kept minimum to avoid conflict of interest.

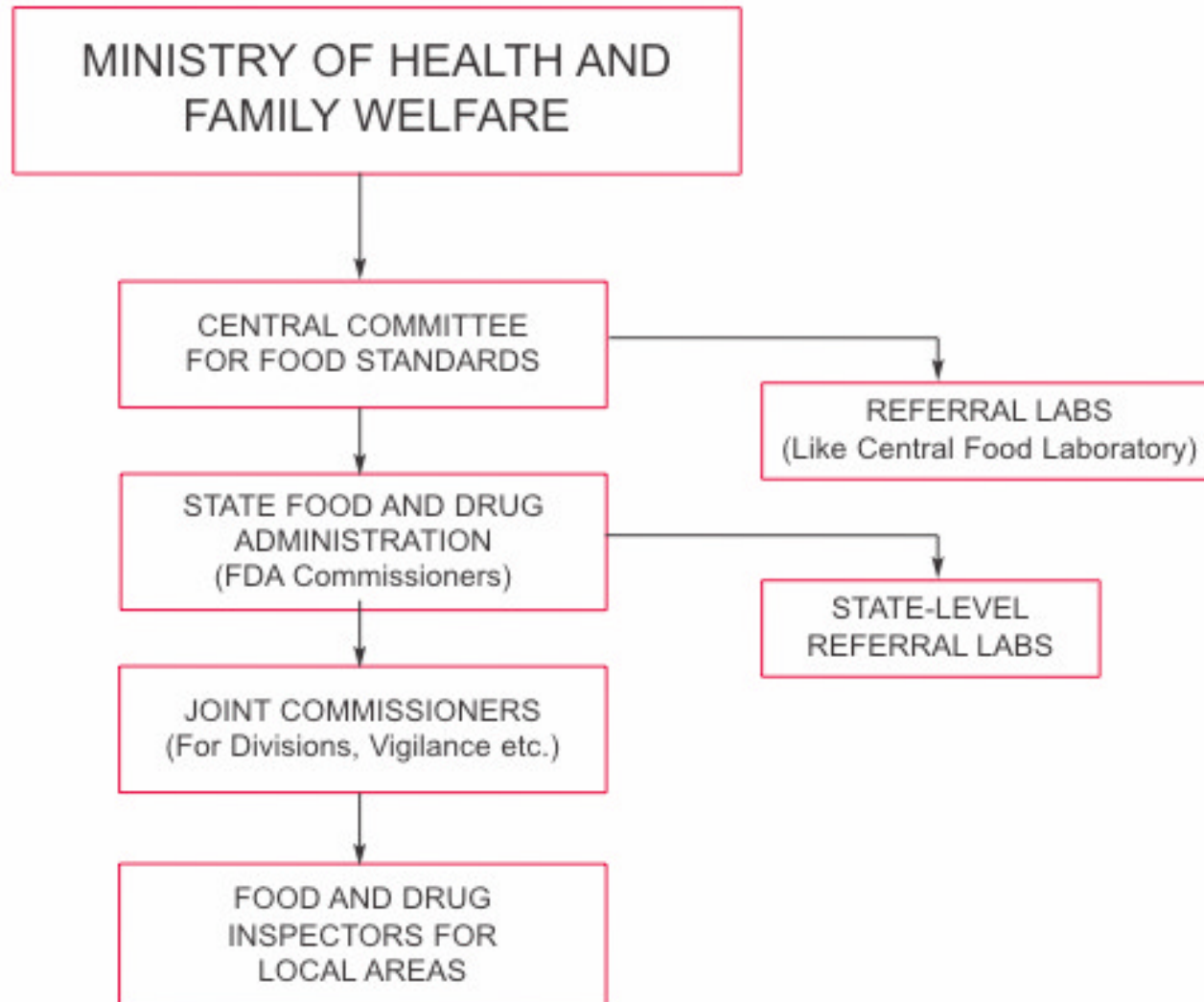


What is new? Not considered?

- **Proposed bill includes 7 bureaucratic positions. Everything else is the same as the current structure. Scientific expertise will be externally sourced, through committees.**
- **No integration of state level institutions in the new structure.**
- **No integration of standard making institutions like BIS in the new structure.**
- **Duplication and lack of expertise continues..**

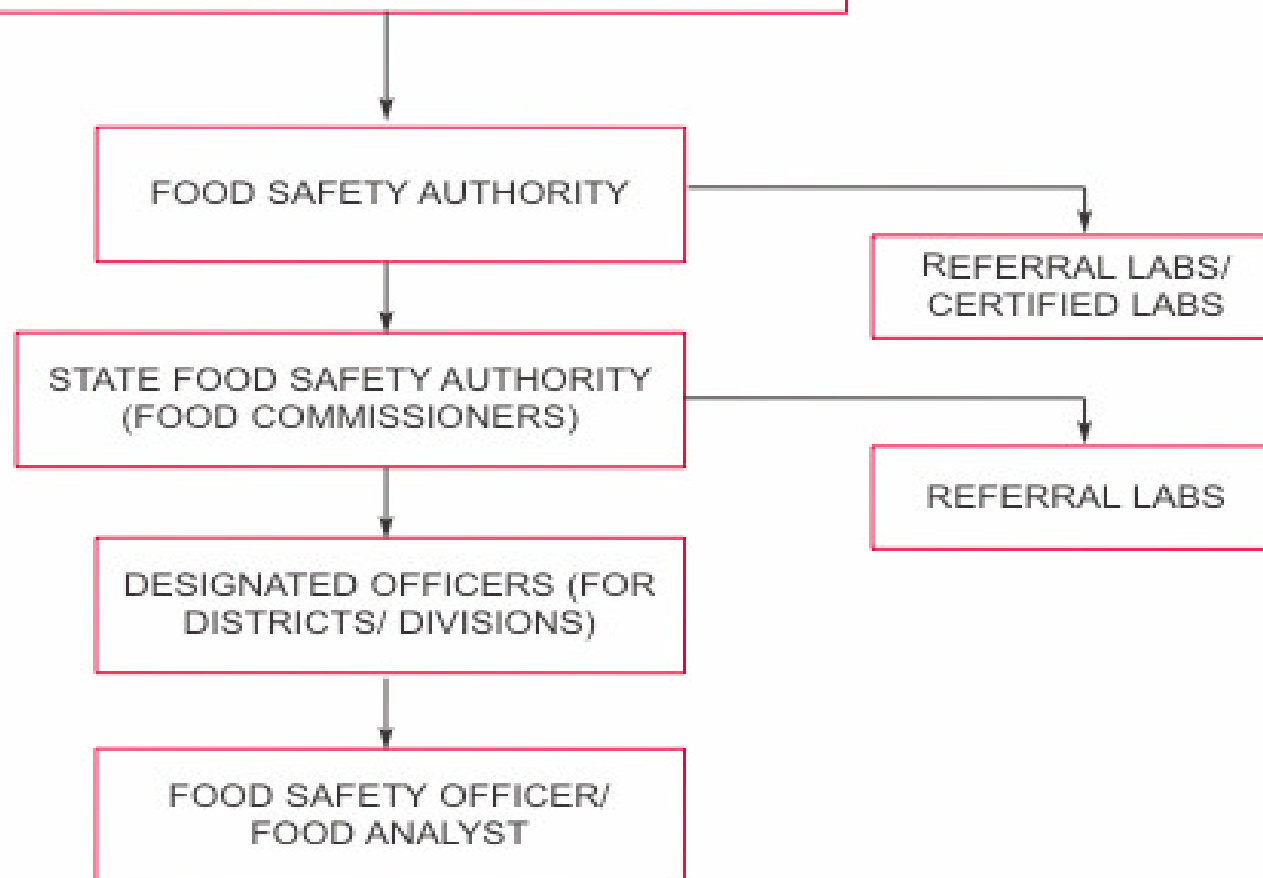


CURRENT SYSTEM



PROPOSED SYSTEM

MINISTRY ?????





Which ministry?

- **All good-reputed food standard and safety institutions under ministry of health. US-FDA (environment and health); UK (environment and health); Japan (health); Thailand (health)...**
- **Cannot be under promoter-ministry. Not done anywhere in world as seen as conflict of interest.**
- **Cannot allow in India as well. Concerns our safety. Our bodies.**



Integrating state institutions

- Only names and designation (from inspectors to food officers) have been changed.
- But the existing food safety enforcement mechanism in states looks after the enforcement of food as well as drugs and cosmetics.
- If we are to create a separate food authority, then who will enforce drug and cosmetics act?
- Why create new mechanism without making any effort to strengthen the existing ones?



Needs careful reworking

- The current proposal has done nothing other than clubbing all the separate piece of food related legislation at one place.
- It neither improves the standard setting process nor does it improves the enforcement mechanism.
- It does little to protect consumers health and safety specifically from modern contaminants.
- It neither has any vision for future food business in India, nor it has concern for small producers and farmers.



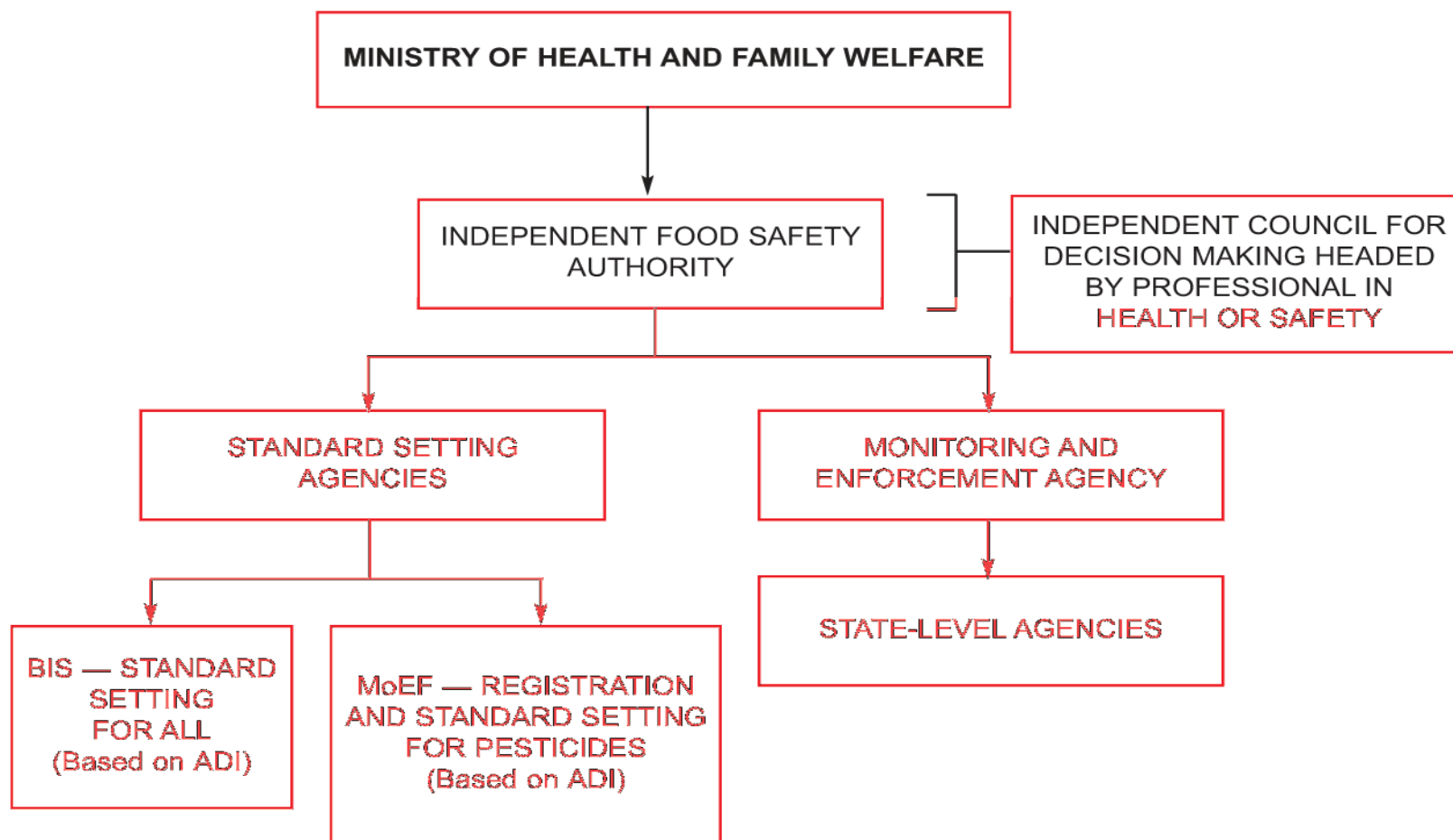
What should be done?

- The focus should change from just consolidating laws related to food, to developing a comprehensive and modern food safety law that ensures and promotes consumers health and safety.
- It needs to recognise India needs to promote small producers and suppliers for its economic well being.
- Improve failures of the existing regulatory and enforcement mechanism. JPC's recommendations to be incorporated.



CSE's recommendations

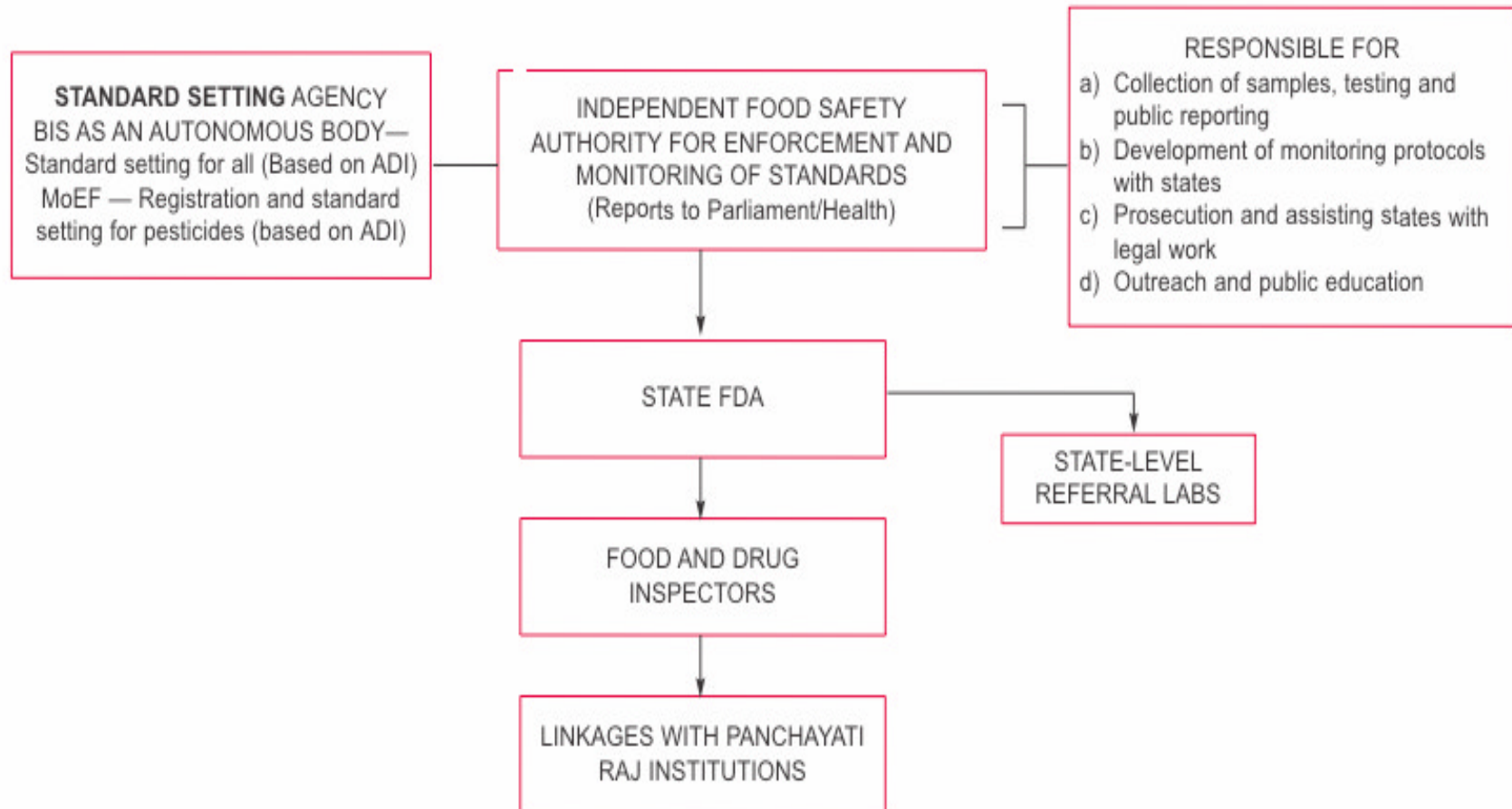
CSE'S PROPOSAL





CSE's recommendations

CSE'S PROPOSAL





Few specific recommendations

- 1 In the definition of 'unsafe food' [Clause 3 (ZZ)], following needs to be included:
 - ♣ A food will be considered unsafe if it doesn't meets the pesticides and other contaminants standards as specified under the law.
 - ♣ A food will be considered unsafe if it contains pesticides and other contaminants, for which no standard has been specified under the law



Few specific recommendations

- 2 Under Clause 59, stiff punishment must be prescribed for not meeting the pesticide and other contaminant standard
- 3 The act must include a Clause to state that:
 - For every food commodity, both processed and unprocessed, pesticide and other contaminant standard must be fixed on end product
 - Acceptable Daily Intake is the benchmark for safety and all contaminant and food additives standards should be set in a way that the ADI is never exceeded



Specific recommendations

- 4 The penalties should be in proportion to the scale of the business –based on the turnover, number of people affected and seriousness of offence
- 5 Clause 69 (Power to compound offences), should be applicable to all – both big and small food businesses – or to none. Here also fines should be based on the turnover, number of people affected and seriousness of offence



Specific recommendations

- 8 The proposed act must make provisions for promoting small producers and farmers. It must provide incentives to them to improve quality and safety and put provision for their capacity building, including training and demonstration
- 9 The proposed act must include details of the proposed organisational structure for regulation and enforcement, including the composition of the scientific committees, including the representation from industry and civil society.



Food is not about business

- **Food is about nutrition.**
- **Food is about livelihoods.**
- **Food is about our safety and health.**
- **This bill cannot compromise our economy, our health and our safety.**
- **We need you to make the difference.**