

Research Article

Food Safety in the Protection of the Right to Consumer: Access to International Law and Vietnamese Law

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ABSTRACT: This right to safe food is one of consumers' most important fundamental rights. This issue is directly related to human health and life, the preservation and development of the human race, and the process of international development and integration. Ensuring food safety is currently a topic that has been paid attention to internationally as well as nationally. On a global scale, food safety issues are a significant concern addressed by the world community through many signed international agreements and conventions on ensuring food hygiene and safety. In Vietnam, food safety is one of the most urgent issues in the context of economic development and world integration, which garners concern from the whole society. Although the Vietnamese government has gradually improved the legal system regulating food safety, the situation regarding violations of food safety laws is still quite complicated. The article addresses the need to ensure the right to food safety to consumers, and analyzes the provisions of international and Vietnamese law on this right. From there, recommendations are proposed to countries to improve efficiency in ensuring food safety for consumers.

KEYWORDS: Food safety, Right to use safe food, International law, Vietnamese law.

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I. INTRODUCTION

Food is an essential source of consumption and has a direct impact on human health. Currently, Vietnamese and international consumers and policymakers are all very concerned about food safety because it affects society as a whole and is related to people's health. The concept of food safety and human development comes from research by Amartya Sen¹ and Jean Dreze.² Sen and Jean's study discusses the rights approach and is the foundation for human development studies as well as human development reports. Food safety is a fundamental human right to access food. More broadly, it refers to the quantity and quality of food necessary to provide basic human nutrition.

Safe food contributes greatly to improving human health and quality of life. According to Perez-Escamilla's analysis, food safety has an impact on people's health in four directions, both positive and negative.³ Food poisoning and foodborne diseases not only directly affect the health and life of each person, but also cause great economic losses and medical cost burdens. These impacts are closely tied to productivity, efficiency of economic development, trade, tourism, and social security. Ensuring food safety is an important contribution to promoting socio-economic development, poverty eradication, and international integration.

Ensuring food safety is both a need and a fundamental human right. In modern society, disease prevention as well as healthy eating and living are crucial issues, with vital importance for countries. After all, the wellbeing of people is ultimately the goal and the driving force of development. In fact, many foods that reach consumers are often contaminated with microorganisms or contain dangerous chemicals that harm human health. Viruses, pathogens, and chemical residues in food cannot be detected through observation, smell, or taste but are very dangerous, can cause many diseases of varying severities, and can lead to death.⁴

¹ Amartya Sen, *Poverty and Famines: An Essay on Entitlement and Deprivation* (Oxford: Oxford University Press, 1982) at 9–10.

² Jean Drèze & Amartya Sen, *Hunger and Public Action*, WIDER Studies in Development Economics (Oxford: Clarendon Press Oxford, 1991) at 85–86.

³ Rafael Pérez-Escamilla, “Food Security and the 2015–2030 Sustainable Development Goals: From Human to Planetary Health” (2017) 1:7 *Current Developments in Nutrition* at 3.

⁴ Elizabeth C Redmond & Christopher J Griffith, “Home Food Safety and Consumer Responsibility” in *Medical Sciences* (Oxford: EOLSS Publications, 2005) at 282.

The Food and Agriculture Organization (FAO) of the United Nations has pointed out that unsafe food can contain bacteria, viruses, parasites, or toxic chemicals, which can cause more than 200 diseases for humans, ranging from diarrhea to cancer.⁵ Therefore, ensuring food safety is always considered an urgent issue for all countries worldwide.

Ensuring food safety means taking action to prevent hazards and limit the consequences caused by unsafe food to humans, animals, and plants. Specifically, this involves preventing food safety and hygiene hazards, inspecting and handling violations of food hygiene and safety, and intervening to eliminate consequences caused by food to humans, the environment, and socio-economic development. The direct purpose of ensuring food safety is to protect consumers' health. However, it holds greater significance for human development, quality of life, social justice, international integration, and culture.

In order for food to reach consumers, it must operate through a chain of processes from production, processing, distribution, to preservation. Because of the need for survival, consumers themselves have no choice but to put their trust in food producers, processors, and sellers. They cannot know exactly whether the food they have been consuming contains toxic substances or not, and if there a risk of harm to their health. Even the entrepreneurs themselves do not necessarily know if food is safe or not. Food can only be considered safe when the aquaculture, production, processing, preservation, and distribution chains strictly adhere to regulations, processes, and standards on food safety.

Strict compliance with these regulations, processes, and standards on food safety often increases costs and reduces profits. Therefore, most food manufacturers, processors, and traders tend to maximize cost savings by only complying with the minimum requirements, even ignoring some regulations they deem as unnecessary. That has increased the risk of creating unsafe food products.⁶

When consumers consume unsafe food, it directly affects their health. Health plays an important role in the socio-economic development of a country and is

⁵ Food and Agricultural Organization, *Food safety, everyone's business: A Guide to World Food Safety Day 2019* (Food and Agricultural Organization, 2019) at 5.

⁶ Lorraine Mitchell, "Economic Theory and Conceptual Relationships Between Food Safety and International Trade" in Jean C Buzby, ed, *International Trade and Food Safety: Economic Theory and Case Studies* (2003) at 10–11.

one of the most basic human rights. The sustainable development of each country depends mainly on the quality of human resources. Health is the most valuable capital of every person, household, and society as a whole. Protecting, caring for, and improving health is the duty of every citizen, family, community, as well the responsibility of the government, mass organizations, and social organizations. They must contribute to ensuring human resources for the construction and defense of the Fatherland, as it is one of the top priority policies of the state. Investment in health care must be considered an investment in development, demonstrating the good nature of the regime.

Food-borne diseases and food poisoning are attracting a lot of attention in Vietnam due to repeated cases of adulterated and unsafe food practices receiving widespread media coverage. The Vietnamese media pays a lot of attention to food safety issues when famous individuals pass away at a young age from cancer, raising questions as to whether there are problems with the food supply.⁷ The Vietnamese government has issued various policies and standards towards improving food safety, but with limited success so far. There are about 400 documents issued by the national government and ministries and about 1,000 documents issued by local governments related to food safety management.⁸ The legal system for managing food safety is deemed to be sufficient, up-to-date, and consistent with international standards. However, the implementation of these policies is still ineffective in Vietnam.⁹

Thus, the right to guaranteed food safety is extremely urgent and necessary. This not only brings health benefits to consumers themselves but also contributes to promoting the sustainable development of society in various aspects.

⁷ Hung Nguyen-Viet et al, “Food safety in Vietnam: where we are at and what we can learn from international experiences” (2017) 6:1 Infectious Diseases of Poverty at 39.

⁸ Tran Cong Thang & Dinh Thi Bao Linh, *Food Safety Policy Review* (2015).

⁹ Vietnamese Government, “Food safety management in Vietnam: Going right, doing strong”, (2017), online: <<https://baochinhphu.vn/news-102218596.htm>>.

II. FOOD SAFETY AND PROTECTION OF THE RIGHT TO CONSUMER UNDER INTERNATIONAL LAW

Food refers to human food and beverages in fresh or processed forms, including beverages, chews, and substances used in food production and processing. According to the World Health Organization (WHO) and the Food and Agriculture Organization (FAO), food safety is ensuring that food is not harmful to the health and life of users, is not spoiled, does not contain physical, chemical, biological agents, or impurities beyond the permissible limit, and is not the product of diseased animals or plants.¹⁰

The right to food is a right for citizens, including children, women, and men, to access sufficient food.¹¹ The Committee on Economic, Social and Cultural Rights (CESCR) correlates food with health by emphasizing that food should be prepared from proper ingredients and safe processing. Food safety represents the modern right to health, which is tied to the understanding of health determinants. The International Covenant on Economic Social and Cultural Rights (ICESCR) states that the right to health includes various socio-economic factors that promote a healthy life and extends to other health determinant factors such as food and nutrition, housing, proper and sufficient access to clean water, sanitation, a healthy workplace, and a healthy environment.¹² The right to food and the right to health intersect, demonstrating their interdependence and correlation. These rights also highlight the state's responsibility to solve the problem of food scarcity as part of efforts to fulfill nutritional needs. Other components of human rights focus on the rights of women and children.¹³

There is a mutual interaction between human development and food safety. Research avenues may explore the relationship between food insecurity and income problems, particularly in areas of poverty and where commercial activities

¹⁰ Food and Agriculture Organization, *Assuring Food Safety and Quality: Guidelines for Strengthening National Food Control Systems*, no.76 edition ed (Rome: FAO, 2004) at 57.

¹¹ *Substantive issues arising in the implementation of the International Covenant on Economic, Social, and Cultural Rights: General Comment No.12. The right to adequate food*, by United Nations Committee on Economics, Social, and Cultural Rights (United Nations Economic and Social Council, 1999).

¹² F N Damayanti & E Wahyati, "Food Safety in the Protection of the Right to Health" (2019) 292:1 IOP Conf Ser: Earth Environ Sci 012047 at 292.

¹³ Henry J Steiner, Philip Alston & Ryan Goodman, *International Human Rights in Context: Law, Politics, Morals : Text and Materials* (Oxford: Oxford University Press, 2008) at 143.

are primarily reliant on agriculture. Another research direction examines how food safety affects people's health, particularly between public health and nutrition. For example, inadequate food safety may lead to harmful bacterial contamination in feed, which can then cause malnutrition. This is especially prevalent in Africa.¹⁴ Naturally, approaches to human development and analysis of food safety challenges require multidisciplinary research methods that combine natural and social sciences. Efforts should be made to promote human development and food safety in a way that integrates both goals.¹⁵

The average daily requirement for each person is approximately 800g of food and 2,000g of water. Scientists have calculated that a person with a life expectancy of 75 years consumes about 22 tons of food (such as rice, bread, vegetables, fruits, tubers, eggs, meat, fish, milk, sugar, butter, etc.) and about 55 tons of water. This further emphasizes that food quality, especially food hygiene and safety, is an extremely important issue that is vital to each individual and society as a whole. The impact of food hygiene and safety is not limited to human health. Food resources determine development and directly affect the prosperity of the economy, the flourishing of culture, socio-political security, and the longevity of a nation-state.¹⁶

Food safety is increasingly a global health and economic challenge. It is estimated that each year, there are more than one billion cases of diarrhea related to food poisoning worldwide.¹⁷ The World Health Organization (WHO) estimates that more than 600 million people get sick and about 420,000 people die each year from ingesting food contaminated with bacteria, viruses, parasites, toxins, or chemicals. Up to 40% of children under 5 suffer from diseases caused by unsafe food consumption, leading to about 125,000 child deaths each year.¹⁸ Therefore, access to and use of safe food is a human right for every individual and a responsibility of every community and country.

¹⁴ O A Uthman & O Aremu, "Malnutrition among women in sub-Saharan Africa: rural-urban disparity" (2008) 8:2 Rural Remote Health at 932.

¹⁵ Pedro Conceição et al, "Food Security and Human Development in Africa: Strategic Considerations and Directions for Further Research" (2011) 23:2 African Development Review at 237.

¹⁶ Lê Doãn Diên, "Socialization of the field of food safety" (2008) Journal of the Communist of Vietnam.

¹⁷ P S Mead et al, "Food-related illness and death in the United States" (1999) 5:5 Emerg Infect Dis at 607.

¹⁸ Food and Agricultural Organization, *supra* note 5.

Unsafe food continues to threaten human health. Both national and international laws have been put in place to ensure the proper management of the quality and safety of food as a circulating commodity.

Over the last decade, there have been significant changes in the national and international regulatory frameworks governing food control, safety, and trade. The adoption of the Codex Alimentarius as the source of international food standards by the World Trade Organization Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) in 1995 has been one of the most significant recent developments in food regulation worldwide. It can be seen as an acknowledgment of the increasing globalization of food production and trade. Worldwide outbreaks of food-borne diseases, with concomitant media attention and outspoken consumer concerns, have also triggered unprecedented interest in food regulation and the country-level infrastructures that govern food safety. National legal frameworks governing food control and food safety vary widely in their complexity and their coverage. Some countries have no food legislation whatsoever, relying solely on international instruments such as Codex standards. Other countries may have comprehensive but outdated food legislation that has been in place for decades. Additionally, some countries may have religious codes operating in tandem with statutory rules or have written policies that are only partially reflected in enforceable and enacted legislation.¹⁹

In order to guide countries to agree on awareness and action in ensuring food safety, the FAO has established the International Food Standards Committee - The Codex Alimentarius Commission (CAC). This Committee is an intergovernmental body of the FAO and WHO, composed of 188 member countries and 234 observers who bring together standards, codes of practice, guidelines, and other recommendations relating to food, food production, food labeling, and food safety. The main objectives of the International Food Standards Committee are to protect consumer health, facilitate international trade, and ensure fair practices in international food trade.

Since its establishment in 1962, the International Food Standards Committee has produced sets of standards, guidelines, and principles divided into 28 parts. These

¹⁹ Jessica Vapnek & Melvin Spreij, *Perspectives and guidelines on food legislation: with a new model food law*, FAO legislative study (Rome: Food and Agriculture Organization of the United Nations, 2005) at 165.

include 237 food commodity standards, 41 rules on food hygiene and engineering, assessments of the impact of 185 types of plant protection on food safety, identification of 3,274 maximum pesticide residue limits allowed in food, and evaluation of the safety of 760 types of additives, 25 types of contaminants, and 54 types of veterinary drugs for food.²⁰

Since 1985, the United Nations has recognized 8 basic rights of consumers: (i) the right to satisfy basic needs; (ii) the right to be safe; (iii) the right to information; (iv) the right to choose; (v) the right to be heard; (vi) the right to claim and compensation; (vii) the right to consumer education and training; (viii) the right to a healthy and sustainable living environment.²¹ Thus, the right to food safety is one of the basic rights of consumers because food is an essential source of nutrition to develop the body, ensuring the health of each individual who can live, work, and enjoy their rights.

The Universal Declaration of Human Rights (UDHR) states that everyone has the right to an adequate standard of living, sufficient to ensure the health and well-being of oneself and one's family, in terms of food, clothing, shelter, medical care, and social services.²² The most important of which is the right to have sufficient food. The provisions of Article 25 of the UDHR are subsequently concretized in Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), in which States Parties recognize the right of every person to an adequate standard of living for oneself and one's family, including aspects of eating, clothing, housing and being constantly improving living conditions. States Parties shall take appropriate measures to ensure the realization of this right and, to that end, recognize the essential importance of international cooperation based on freedom of consent. Recognizing the fundamental right of every person to be free from hunger, States Parties shall take, on their own and through international cooperation, measures necessary to: (a) improve methods of food production, storage, and distribution by applying scientific and technical knowledge; disseminating knowledge of the principles of nutrition, and developing and reforming cropland systems so that these natural resources can be developed and used most efficiently; (b) ensure equitable distribution of the

²⁰ *Codex Alimentarius: How it Came About*, by Food and Agricultural Organization (Food and Agricultural Organization).

²¹ Vietnam Competition Authority, *Consumer Protection Handbook* (Hanoi: National Politics, 2006) at 33.

²² United Nations, *The Universal Declaration of Human Rights, Article 25* (1948).

world's food resources according to demand, taking into account the problems of both importing and exporting countries.²³ The Committee on Economic, Social, and Cultural Rights (CESCR) has explained very specifically the meaning and content of the rights enshrined in Article 11 of the ICESCR. General Comment No. 12 (adopted at the 21st session in 1999) addresses the right to adequate food, including the issue of preventing toxicity, which imposes requirements on food safety and a series of preventive measures from both public and private sectors to prevent the possibility of food causing diseases due to counterfeiting, poor environmental sanitation, or improper implementation of production processes. In addition, it includes measures to detect, prevent, or eliminate toxins that naturally arise in food.

In the same vein, FAO considers that the right to an adequate standard of living is itself a fundamental human right.²⁴ Violations of this right include discrimination based on factors such as ethnicity, race, sex, language, religion, belief, political opinion, origin, property, or any other basis in ensuring access to food or the means to obtain it.

The content of consumer rights in the field of food safety is also stipulated in the United Nations Guidance on the Protection of Consumers' Rights (1985). It includes the following principles: protect the safety of consumers, not harming consumers' health; encourage and protect the economic interests of consumers; consumers have the right to access information to make conscious choices tailored to their individual needs; consumer education; prescribe effective procedures for the settlement of consumer complaints; consumers are free to form organizations and groups, and such organizations have the right to express their views in the process of adopting decisions concerning the interests of consumers.²⁵

²³ United Nations, *International Covenant on Economic, Social and Cultural Rights, Article 11* (1966).

²⁴ Food and Agriculture Organization, *supra* note 10 at 57.

²⁵ United Nations, *A/RES/39/248. General Assembly. Consumer Protection* (United Nations, 1985).

III. THE RIGHT TO ENSURE FOOD SAFETY UNDER VIETNAMESE LAW

Vietnam is a country that is in the process of promoting economic development and integration into the world economy. Along with rapid urbanization, changes in income levels have led to changes in diets and nutrition. Therefore, the issue of food safety in Vietnam has become a great concern not only for consumers but also for managers, especially food business managers. Therefore, the issue of food safety in Vietnam has become a great concern not only of consumers but also of managers, especially food business managers.

In recent years, Vietnam has had frequent incidents related to poor quality or unsafe food. Although the state has made efforts to ensure food safety, violations are still becoming increasingly complicated. In 2023, Vietnam's health sector inspected more than 382,000 establishments, finding 34,500 violations, of which more than 12,000 establishments were fined a total of about VND 44.4 billion. In the agricultural sector, authorities inspected more than 19,300 establishments producing and trading agricultural materials and forestry and fishery products, sanctioning more than 1,600 establishments with a total fine of over VND 14.4 billion. In the industry and trade sector, authorities inspected over 8,300 cases, handled over 6,770 cases of violations, sanctioned VND 36.3 billion, and confiscated goods with a total value of VND 31.6 billion. Vietnam recorded 125 cases of food poisoning, causing more than 2,100 poisonings and resulting in 28 deaths, notably from poisoning caused by clostridium botulinum. Previously, in 2022, there were 54 cases of food poisoning in Vietnam, in which 1,359 people were poisoned and 18 people died. The problem of food safety violations in Vietnam is very alarming. People's right to safe food use is not well-protected, and consumers are facing the risk of food insecurity.

Facing the above situation, many policies and laws of the state have been promulgated to create a legal corridor that strives to fully ensure food safety for consumers, in line with the trend of international integration. Although the 2013 Constitution does not provide specific provisions on the right to ensure food safety, it does include relevant provisions on the right to life, protection of life, and health care, namely: "Everyone has the right to life. Human life is protected

by law. No one should be unlawfully deprived of life";²⁶ and "Everyone has the right to protection, health care, equality in the use of health services and the obligation to implement regulations on disease prevention, medical examination, and treatment."²⁷ In addition to the 2013 Constitution, there are many Vietnamese legal documents currently regulating food safety. First, the Law on Food Safety was passed by the National Assembly on June 17, 2010, to address growing national concerns about food safety risks and issues affecting trade and human health. This law is the modern legal framework, according to international food safety management standards and approaches. The law clearly defines responsibilities for food safety management across three relevant departments: the Ministry of Agriculture, the Ministry of Health, and the Ministry of Industry and Trade. Each ministry is assigned to ensure food safety for specific products throughout the food supply chain, including production, preliminary processing, processing, import and export to retail wholesale distribution, customs clearance by the Food Safety Administration, and other steps. In addition to specific responsibilities for ministries, there are general responsibilities outlined for food safety in Vietnam. The Law states that food safety management should be carried out throughout the entire process, from food production to distribution, and be based on food safety risk analysis, which means that the entire food supply chain needs to be managed from "farm to fork". The Law sets out specific requirements for food safety management in Vietnam, including rights and obligations of organizations and individuals in ensuring food safety; conditions for ensuring food safety in food production, processing, and trading; conditions for ensuring food safety for imported and exported foods; requirements for food advertising and attribution; requirements for food testing and hazard analysis to food safety; prevention and management of food safety incidents; information, education, and communication on food safety; responsibility for state management of food safety.²⁸ Thus, the provisions of the Law on Food Safety are relatively comprehensive and compatible with relevant documents issued by the FAO and WHO.²⁹ In terms of scope, only the issue of association and cooperation with

²⁶ *The Constitution Of The Socialist Republic Of Vietnam*, Article 9.

²⁷ *Ibid*, Article 38.

²⁸ *Food Safety Risk Management in Vietnam: Challenges and Opportunities*, by World Bank (Hanoi, 2017) at 15–16.

²⁹ *Country Report: 15 Years Achieving the Vietnam Millennium Development Goals*, by Ministry of Planning and Investment (Government of Vietnam, 2015).

social organizations and non-state actors in the supervision of food safety has not been regulated to ensure compatibility and conformity with the provisions of international instruments.

Some studies suggest that private standards translate into improved food safety management systems.³⁰ A food safety management system goes beyond the physical safety-related attributes of food products and includes aspects such as record-keeping, chemical safety infrastructure, occupational health and safety, and technical training. On the one hand, these improvements can hypothetically lead to higher domestic food safety in developing countries.³¹ On the other hand, critical scholars argue that it would only lead to an increased quality gap between exported and domestic products.³² Therefore, there is no consensus on whether improved food safety management systems benefit only the retail sector and consumers in developed countries, or whether their spillover effects benefit producers and consumers in developing countries as well. As summarized by Herzfeld, benefits like enhanced internal processes and higher stability of supplier-customer relationships are difficult to quantify and analyze.³³

Vietnam, as a member of the United Nations General Assembly and in support of the rights of consumers, voluntarily implemented UN Resolution No. 39/248, "Guidelines for Consumer Protection" of April 9, 1985. Accordingly, Vietnam has internalized 8 basic rights of consumers and UN recommendations on the responsibilities of countries into the Vietnamese legal system, particularly through the Law on Consumer Protection in 2010. These include: the right to meet basic needs; the right to be safe; the right to be provided with information; the right to choose; the right to be heard or represented; the right to compensation; the right to be educated about consumption; the right to live in a clean and sustainable environment.

³⁰ Steve Jaffee & Oliver Masakure, "Strategic use of private standards to enhance international competitiveness: Vegetable exports from Kenya and elsewhere" (2005) 30:3 Food Policy at 316.

³¹ Steven Jaffee & Spencer Henson, "Standards and agro-food exports from developing countries: rebalancing the debate" (2004) Policy Research Working Paper Series (Policy Research Working Paper Series) at 17.

³² Doris Fuchs, Agni Kalfagianni & Tetty Havinga, "Actors in private food governance: the legitimacy of retail standards and multistakeholder initiatives with civil society participation" (2011) 28:3 Agriculture and Human Values at 353.

³³ T Herzfeld, L S Drescher & C Grebitus, "Cross-national adoption of private food quality standards" (2011) 36:3 Food Policy at 401–402.

In addition to the Constitution and the Law promulgated by the National Assembly, there are also many specific guidance documents on food safety issued by the government, including various ministries and departments. For example, Decree 15/2018/ND-CP dated February 2, 2018, guiding the Law on Food Safety; Decree 115/2018/ND-CP dated September 5, 2018, stipulating penalties for administrative violations of food safety; Circular 17/2021/TT-BNNPTNT dated December 20, 2021, regulating traceability, recovery, and handling of unsafe food under the management of the Ministry of Agriculture and Rural Development. These efforts demonstrate that the state agencies are committed to the work of ensuring food safety for consumers, which is reflected in the development of many legal frameworks to adapt to any arising issues.

With a proactive, positive, and drastic approach, management agencies from both the central and local levels have consulted with the government and implemented many solutions and measures to ensure food quality and safety, contributing to the improvement and sustainability of people's lives. On January 4, 2022, the Prime Minister issued Decision No. 20/QĐ-TTg on approving the National Food Safety Strategy for the period 2011-2020 and a vision extending to 2030. The National Food Safety Strategy has defined and agreed on very specific and synchronous guiding views, objectives, targets, contents, and implementation solutions with the ultimate purpose of ensuring the sustainable development of people's quality of life. The national strategy has determined: ensuring food safety is ensuring the interests of consumers and people's health—which is a task that regularly needs to be directed by the government, the interests and responsibilities of organizations and individuals producing and trading food, and the interests of each citizen; organize the synchronous implementation of legal regulations on food safety, attach importance to inspections, promote the application of advanced measures in food safety management; strengthen communication in order to create a profound change in the awareness of producers, consumers, and society about maintaining hygiene and ensuring food safety.³⁴

³⁴ Prime Minister of Vietnam, *Decision No. 20/QĐ-TTg dated January 4, 2022 of the Prime Minister on Approving the National Food Safety Strategy for the Period 2011-2020 and Vision to 2030* (2022).

On October 21, 2022, Vietnam's Secretariat issued Directive No. 08-CT/TW "On strengthening food security and safety in the new situation" to request all levels of government, the Fatherland Front, mass organizations, and food industry associations to thoroughly understand and carry out the tasks of ensuring food safety. On August 2, 2022, the Prime Minister of Vietnam issued Decision No. 925/QĐ-TTg to approve a program for the period of 2021-2025 on strengthening environmental protection, food safety, and clean water supplies in new rural constructions. The program would contribute to creating a safe and sustainable rural living environment, building clean and beautiful rural landscapes, preserving traditional cultural identities; protecting health, improving the quality of life of rural people, and making rural areas a good place to live.

In the face of the habit of abuse and improper use of plant protection drugs and agricultural supplies is still quite common. Management of small cattle and poultry slaughter activities, with many unsafe risks, remains difficult. Contraband, counterfeit, and unsafe food are still prevalent. The business and advertising of functional foods violate the law, especially on social networks, which is complicated and difficult to manage. In order to continue improving the effectiveness of management and ensuring food safety, the Prime Minister has continued to issue Directive No. 17/CT-TTg dated April 13, 2020, on strengthening state management responsibilities for food safety in the new situation.

In addition, management methods for food goods are also governed by the Law on Quality of Products and Goods; Law on Standards and Technical Regulations, Law on Fisheries, Law on Commerce, and Law on Competition. In general, the provisions of the above legal documents represent an approach in line with the recommendations of international organizations, which is to link many actors while simultaneously avoiding cross-responsibility. The acceptance of internationally recognized quality rating scales demonstrates Vietnam's spirit of compliance with international trade standards.

In the context of the current alarming situation of food safety violations, besides the above legal system, the Vietnamese Penal Code 2015 (amended and supplemented in 2017) has demonstrated resolute handling of food safety violations. All violations from preliminary processing, processing, preservation,

sale, supply, and use of chemicals, antibiotics, veterinary drugs, and plant protection drugs in cultivation, animal husbandry, aquaculture, salt making, and other specified activities may be subject to criminal consideration. The criminal law has also criminalized liability for legal entities. In particular, directly related to food safety violations, legal entities may be punished with the crime of producing and selling counterfeit goods such as food or violating regulations on food hygiene and safety. This sanctions system is in line with the general trend found worldwide and in Vietnam's legislative tradition.

However, comparing with the standards and recommendations of international organizations, Vietnam still needs to continue adjusting regulations on food safety conditions in the direction of risk management, especially for imported goods, so that inspections are more efficient and the pressure load on enforcement agencies is reduced. The implementation of the Law on Standards and Technical Regulations has revealed that a number of limitations and inadequacies need to be addressed in order to ensure commitments to standards and technical regulations in the new-generation free trade areas (FTA) that Vietnam has signed. Vietnam has not yet stipulated several standards and regulations to ensure compliance with the requirements of international practices and commitments. This includes the principle of transparency and regulations related to conformity assessment activities to meet the requirements of new-generation FTAs (e.g., regulations on cross-border service provision without the presence of legal entities of foreign certification bodies in Vietnam).³⁵

The system of policies to manage Vietnam's food import activities is issued synchronously, ensuring compliance with commitments on taxes and non-tariff trade measures from the World Trade Organization (WTO) and free trade agreements to which Vietnam is a party. Vietnam has formed a state management apparatus for food from central to local. However, there are also cases where imported food is not safe or has an unknown origin. The final reports show that the limited effectiveness of imported food controls is due to legal regulations on the management of imported food that are not adapted to real circumstances. The division of responsibilities of state agencies in the management of imported

³⁵ Phạm Thị Thúy Nga, "Perspectives and solutions to improve the law on food safety in Vietnam today" (2022) 10 Vietnam Journal of Human Resources in Social Sciences at 21.

food is still inadequate, the food management process by license presents many unreasonable problems.³⁶ Regarding imported food, the Law on Food Safety and the Law on Quality of Goods Products should supplement regulations that apply risk management principles in specialized inspections and abolish regulations on requiring inspection of each shipment. The experience of other countries effectively highlights the importance of the role of labels and developing and unifying traceability format systems for food.³⁷ Other countries have applied science and technology for traceability, such as DNA testing, which has become an effective method in cases where traditional methods are not very effective. Therefore, Vietnam needs to implement the goal of strongly reforming specialized inspections to reduce time and costs for enterprises, facilitate trade, and promote and increase national competitiveness.

IV. OBLIGATIONS OF STATES TO ENSURE THE FOOD SAFETY OF CONSUMERS

Protecting the rights of consumers is a shared responsibility of the whole society. The protection of consumer rights plays an important role in the stable and sustainable development of a country, especially in the context of globalization today. Consumer rights protection laws are a tool for the implementation of human rights in the socio-economic field, particularly in the context of rapid development driven by the Industrial Revolution 4.0. Through legislation, the state regulates social relations to orient and promote socio-economic development according to the principles of sustainable development and serve human development goals.

The adoption of science-based international food safety standards can help mitigate food safety risks and improve the predictability of and access to both domestic and global food and feed supply chains. For example, the international food standards developed by the Codex Alimentarius Commission are recognized by the WTO Agreements on Sanitary and Phytosanitary Measures as

³⁶ Trương Thanh Vĩnh & Đặng Công Hiến, “Complete food import policy in Vietnam” (2020) 53 Vietnam Journal of Industrial and Trade Research at 10.

³⁷ Emma Tonkin et al, “Consumer trust in the Australian food system – The everyday erosive impact of food labelling” (2016) 103 Appetite (Consumer psychology and portion size: making smaller better) at 123.

the main reference for food standards applied in international trade. The use of standards, however, should be balanced, as enforcing overly strict standards can reduce access to markets.³⁸

According to the laws of certain countries, food production and trading entities are not allowed to produce food for sale or import food without a license from a competent authority. For imported food, research from many countries shows that building an effective system of processes, including risk assessment, risk management, and risk communication for safe food is important in ensuring food safety.³⁹ In Thailand, 54 foods are required to be regularly inspected by law, and 4 types of foods are prohibited from production and import. Thailand's Minister of Health has the task of specifying controlled foods. In Japan, the Ministry of Health, Labor, and Welfare has several mandates: promulgate food standards, food labels, regulations on food additives, and lists of foods prohibited from sale; promulgate standards for food contamination prevention; directly certify hazard analysis and critical control points for 7 high-risk food processing industries: milk, dairy products, butter and butter products, non-alcoholic beverages, meat and meat products, fish and fish products, and canning production. Under Malaysian law, the Minister of Health is tasked with developing food standards; prescribing conditions for production, processing, preservation, transportation, and distribution; prescribing how food is labeled; and overseeing food testing regulations.⁴⁰ Meanwhile, to control the food safety of countries in the European Union, the EU legal system consists of 5 basic laws governing the import of new food products in general, products from fisheries, and agricultural products: 178/2002/EC, 852/2004/EC, 853/2004/EC, 882/2004/EC and 854/2004/EC. Accordingly, food on the market within the EU must be safe and transparent in the food supply chain. Regulation 852/2004/EC sets general hygiene requirements for all food businesses, setting uniform rules from farm to point of sale based on hazard analyses and critical control points. In addition, EU

³⁸ Elizabeth Petersen, *Vietnam food security policy review*, ACIAR Monograph Series (Canberra: The Australian Centre for International Agricultural Research (ACIAR), 2017) at 126.

³⁹ Nguyễn Ngọc Trung, "Food Safety for Human Development – Lessons from South Korea, Australia and Sweden" (2020) 9 *Journal of Northeast Asian Studies* at 54.

⁴⁰ Malaysia, *Food Safety Legislation: Science and Risk-Based Approaches to Harmonization* (Seremban, Malaysia, 2004).

regulations strictly control foods of animal origin using specific processes and standards.

Currently, food has become a commodity with a very high international trade, so food safety issues not only concern national internal affairs but are also governed by international law, especially human rights law and international trade law. This means that, to ensure people's right to safe food, states must also fully comply with international instruments in this regard, particularly the provisions of the International Covenant on Socio-Economic and Cultural Rights (ICESCR), as well as guidelines and recommendations of the WTO, WHO, FAO, and the International Food Standards Committee.

In many countries, the control, management, and inspection of the conformity and safety of food products are the core issues of food safety management. Most countries promulgate legal documents on the application of standards, technical regulations, and laws on food safety. The Australian and New Zealand Food Safety Ordinances and Food Regulations of 2003 use standards as legal tools to manage food safety. The General Law on Food Safety of Europe sets out regulations and directives specifying hygiene requirements based on EU and international food standards. Similarly, Korea's food hygiene laws set out food safety regulations based on international and national standards. These laws aim to protect health from contaminants and hazards in food, ensure food safety, and promote consumer education on the standards of food production processes, food additives, food packaging materials, quality, safety, action regulation, as well as standards on food.

The nature and content of the right to food, and the corresponding obligations that flow from this right, have become much clearer and better understood than when it was first enshrined in the ICESCR. It has also been widely endorsed and has “been accorded universal recognition as a human right”. According to Alston, the right to food is “firmly entrenched as a basic norm”, recognized by all states in the international community.⁴¹ Thus, as a human right representing universally

⁴¹ Philip Alston, “International Law and the Human Right to Food” in *The Right to Food* (The Hague: Stichting Studieren Informatiecentrum Mensenrechten, 1984) at 9–10.

recognized norms, shared values, and legal obligations, the right to food is a valuable tool for addressing the global problem of hunger and food insecurity.

According to WHO's guidelines on promoting the national food safety program, ensuring food safety is the responsibility of many actors, of which states have the main role and responsibility.⁴² For the state to fulfill its obligations in this regard, it is first necessary to promulgate legal regulations on food safety and propose solutions for effective implementation. In addition, states need to disseminate information and guide people and related entities on ensuring food safety in agricultural, industrial, commercial, production, and consumption activities. The state must also collect information, conduct research, and provide health services to solve health problems caused by people who face food insecurity. For consumers, it is necessary to educate themselves on food safety to actively distinguish and make appropriate food choices, ensure food safety within the household, and call on the community to form consumer activity groups to contribute to solving food safety issues. For manufacturers and distributors, they must comply with standards, ensure quality, and strictly control food in all processes of production, processing, storage, and distribution.⁴³

WHO has made recommendations to Member States to prepare food safety dossiers and data repositories with information on factors affecting food safety, to hold dialogues and cooperation between agencies and partners, and consider the most important factors to maximize efficiency in food safety processes.

FAO has also developed a set of guidelines to support the realization of the right to food safety in the context of national food security. Recommendations have been made to countries to ensure food safety and protect consumers' rights, including:⁴⁴ take measures to ensure that all foods on the market are compatible with national food safety standards; develop a comprehensive and rational food control system with risk monitoring and analysis mechanisms to reduce the risk of foodborne diseases; streamline procedures and avoid gaps and overlaps

⁴² *Guidelines for Strengthening a National Food Safety Programme*, by World Health Organization (Switzerland: World Health Organization, 1996) at 3.

⁴³ Vu Thi Hon Hanh, "Legislation on standards and technical regulations in the field of food safety" (2023) 15 Vietnam Journal of Industry and Trade at 41.

⁴⁴ Un Secretariat & FAO Council (127th sess : 2004 : Rome), *Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security :: note / : by the Secretariat* (UN, 2005) at 20.

between inspection agencies and the legal regulations of food control and food safety; apply internationally accepted scientific standards of food safety; take action to prevent contamination from industrial chemicals and other pollutants in food production, processing, storage, transportation, distribution, handling, and trading; establish a national coordinating committee inclusive of both state and non-state actors to assist private actors in the control of food production establishments; where necessary, support farmers and primary producers to comply with good production and agricultural practices, and to consider building food systems and monitoring mechanisms to ensure safe food supply to consumers; educate producers on good production practices so that no residue of harmful substances spread to food supplies and the environment; educate consumers on how to use, store, and handle food in households; cooperate with international and regional organizations to address food safety issues; apply measures to protect food consumers in accordance with WTO regulations; cooperate with multiple parties to address food safety issues and consider multi-stakeholder participation in national and international forums that develop policies on food production, processing, distribution, storage, and marketing.

Food fortification is a powerful and cost-effective tool to reduce hidden hunger and is considered one of the most urgently needed interventions to improve health in developing countries.⁴⁵ But the practical implementation is challenging. Many promising food fortification interventions have been developed and tested in pilot programs, but success often evades more full-scale implementation efforts.

A legal framework defines the rights and obligations of different parties in society and will allow protection and awareness of consumers, certification and quality control of producers, and monitoring, evaluation, and management by the authorities. Therefore, the legal framework is crucial for the implementation of food fortification, as it determines the playing field (e.g., which products, nutrients, producers, consumers, and markets), the limits (e.g., mandatory or voluntary participation, costs, certification, labeling, and information), and the instruments (e.g., monitoring, uptake and compliance, social marketing,

⁴⁵ *The Challenge of Hunger and Malnutrition*, by Sue Horton, Harold Alderman & Juan A Rivera (Copenhagen Consensus, 2008) at 363.

enforcement). To a large extent, the legal framework shapes the implementation of food fortification and the evaluation of the outcomes of a given strategy or intervention. Therefore, the legal framework should not be overlooked as a crucial determining factor.⁴⁶

V. PROPOSALS TO ENSURE FOOD SAFETY FOR CONSUMERS

Ensuring food safety for consumers is the responsibility of the whole society. For consumers' rights to be realized, individuals and organizations producing and trading food, as well as consumers themselves, must properly understand legal provisions and the role of law enforcement in food safety. Those involved in food production and trading must be aware of their obligations, the legal consequences for breaking the law, and that their compliance with laws to ensure food safety is also about protecting their rights and the common interests of society. Consumers who are protected subjects must also have a sense of self-protection towards their rights and the interests of society. They should be aware of their important position in deciding the existence of their business, and properly and sufficiently understand their rights and obligations that the law recognizes, as well as mechanisms and measures to protect rights when infringed. To raise broader awareness of the laws and responsibilities for food safety, it is necessary to focus on reforming the following aspects:

A. From the State Side

This is a social management entity, that plays a very important role in ensuring food safety for consumers. Therefore, state activities related to ensuring food safety for people should be demonstrated through the following activities:

i. Improve the Capacity of the Food Safety Management Apparatus

The right of consumers to be ensured the safe use of food can only be guaranteed if competent officials are aware of their responsibilities and obligations in ensuring that food put into circulation is safe, nutritious, and suitable to national traditional cultures. The capacity of state management agencies in charge of food

⁴⁶ Marjoleine Amma Dijkhuizen et al, "Legal Framework for Food Fortification: Examples from Vietnam and Indonesia" (2013) 34:2_suppl1 Food Nutr Bull at 113.

safety is the determining factor for the effectiveness of food safety management. As socio-economic development progresses, the competency level of managers requires improvement, administrative institutions in management also gradually improve, and the inspection and sanctioning of individuals and enterprises that occur domestically as well as abroad require intensive training for officials. Often, it is difficult for consumers to recognize the safety of food. Getting safe products to the market depends greatly on the ethics, responsibility, and self-discipline of food producers, processors, and sellers. In that process, only the state—with its power, responsibility, and the capacity of individuals working in its management agencies—can ensure the safety of food when supplied to the market.

ii. Complete National Policies and Laws on Ensuring Food Safety

In order to ensure the right to safe food for people, the system of policies and laws of the state must be perfected, aiming to protect consumers with priority to vulnerable groups such as children, women, the elderly, and people with disabilities. Therefore, countries need to strengthen the timely promulgation and review of legal documents to create a solid legal framework governing food safety. Each country's legislation should regulate the national food safety control system according to the food safety standards set by the International Food Standards Committee (CAC), an intergovernmental organization of the United Nations co-founded in 1963 by FAO and WHO. The CAC has set out guidelines and scientific standards for food quality and safety related to the handling of contaminants, hygiene practices, labeling, additives, testing and certification, nutrition, and residues of veterinary drugs, and pesticides. These guidelines and standards are important bases for countries to adopt to ensure domestic food safety and access to international safe food standards.⁴⁷ These standards aim to limit the introduction of pathogen-containing contaminants, veterinary drug residues, growth agents, stimulants, and natural toxins into production, processing, and preservation processes in the agriculture and food industries.

iii. Establish a Comprehensive Food Safety Control System

Most developed countries have established comprehensive food safety control systems to ensure that all food, whether produced locally or imported through

⁴⁷ Food and Agricultural Organization, *supra* note 5 at 5.

trade or aid, is safe and meets national food safety standards.⁴⁸ The system ensures that food must always be safe in all stages from production, processing, storage, storage to transportation, distribution, and circulation. Food safety control systems need to help individuals combat the harms caused by unsafe food and food marinated in unsafe substances, including street foods. Food packaging and labeling must contain clear, complete, and accurate information, ensuring consumers can make the best food choices.

iv. Complete the National Technical System of Food Safety

The development of national technical regulations on safety norms and limits in healthy foods is necessary by-laws and management practices. Legal experience shows that, when developing national food policies and plans, governments should consider the needs of all consumers for food safety, and support and, where possible, accept the standards of the FAO, WHO, and the Codex Alimentarius, or recognize other widely recognized international food standards.

v. Strengthen Inspection, Control, and Bandling of Violations of Food Safety

Countries should direct state management agencies to strengthen control over food safety at food trading establishments; effectively prevent the trade of counterfeit goods, smuggled, from unknown origin, of unsatisfactory quality, expired, or violating regulations on circulating trademarks; and strictly handle violations following the provisions of law. These agencies must strengthen specialized and interdisciplinary inspection activities to ensure food safety and handle violations of food preservation and preliminary processing.

B. From the Side of Food Producers and Traders

These stakeholders play a particularly important role in ensuring food safety and the legitimate interests of consumers. Only in cases where food producers, processors, and traders strictly comply with regulations and processes on cultivating, producing, processing, transporting, trading, and preserving food can they ensure the right to safe food for consumers.

⁴⁸ Tran Huu Trang, "Ensuring Consumers' Right to Safe Food." (2019) 2 Vietnam Journal of Procuracy Science at 15–16.

Organizations and individuals involved in food production and trading must be aware of their obligations regarding the legal consequences to be suffered when violating the law, and that complying with the law to protect the interests of consumers also protects their own interests and the common interests of society. Therefore, it is necessary to renew communication to change the perception and behavior of people in consumer relations. First, it is necessary to determine marketing contents suitable for each subject group and the regional characteristics of each country. The government communicates with food producers and traders themselves about the legal regulations on food safety. These efforts thereby change the perception of food production and business entities about responsibilities and rights when implementing legal regulations to protect the safety of life, health, and other interests of consumers. In communication activities, it is necessary to provide information about the violators, how they are handled, and the business consequences of their products being boycotted on the part of consumers.

The role of communication is increasingly important for the outcomes of food and nutrition in countries. Ward, Henderson, Coveney, and Meyer explored the role of media information in food safety coverage and consumer confidence in the food supply system.⁴⁹ Disparate, even conflicting, information can create instability and cause anxiety for those who buy and sell food. Therefore, the appreciative attitude of those working in the food system is the foundation to ensure customer trust in food safety. Since food branding and labeling is a direct form of communication between consumers and food distributors, it influences consumer evaluation. Therefore, the development and unification of the traceability format system for food through an online website platform will help the participation of market owners as well as food buyers.

Ravenswaay's research shows that consumers are willing to pay 50% more for products that do not use pesticides or substances that pose a risk to food safety.⁵⁰ These studies clearly show that what consumers care about is the guaranteed right to safe food, not the price. Therefore, food growers, producers, processors, and

⁴⁹ Paul R Ward et al, "How do South Australian consumers negotiate and respond to information in the media about food and nutrition?: The importance of risk, trust and uncertainty" (2012) 48:1 *Journal of Sociology* at 23–24.

⁵⁰ Raphaëlle Oger et al, "Food Safety in the U.S. Fruit and Vegetable Industry: Awareness and Management Practices of Producers in Kentucky" (2001) University of Kentucky, Department of Agricultural Economics, Staff Papers at 5.

sellers need to uphold social responsibility for their community and attach importance to moral and social values by strictly complying with regulations on standards, quality, and all processes of food production, processing, and trading to ensure that consumers have the safest food-not for profit maximization but to prevent unfortunate consequences for consumers. One country's experience worth learning from is that of the United States. The U.S. government encourages food manufacturers to voluntarily report if food is accidentally contaminated with bacteria or toxic chemicals. The U.S. Food and Drug Administration (FDA) can then send highly trained experts to provide scientific and legal support to businesses to troubleshoot, thereby reducing the risk of unsafe food being put on the market.⁵¹

It is necessary to organize the production of safe food according to international regulations and strictly conduct the certification of high-quality, safe food to orient consumers in choosing those options. Building a system of quality control and food safety from cultivation, purchasing at wholesale markets to supermarkets, trade centers and safe food stores. In the long term, it is necessary to develop a chain-controlled food distribution system to work towards the complete elimination of unknown food and step-by-step control of food safety at traditional markets.

VI. CONCLUSION

Food safety is a prominent public health issue in the world, especially in developing countries where foodborne diseases have a severe impact. Unsafe food can place significant burdens on human health, farmers' livelihoods, the survival of businesses, opportunities to enter world markets, national reputation, and attractiveness to tourism.

Aspects of human development can be more clearly identified in food production and processing. Improved gender equality, education, and health development can help improve food production productivity and better serve human needs. Food safety is not only about quantity but also about quality, which in turn will

⁵¹ Fred Fung, Huei-Shyong Wang & Suresh Menon, "Food safety in the 21st century" (2018) 41:2 Biomedical Journal at 91.

contribute to more holistic human development. Further research on solutions for sustainable agricultural development should be carried out, including policy research, so that agriculture uses more environmentally friendly fertilizers and chemicals, as this is one of the issues raised to ensure food safety.

Providing safe food is the task of the private sector, whether small or large-scale enterprises, as well as all participants in the food supply chain, from key input suppliers and producers to food processors and distributors. This should be achieved through the use of reasonable solutions and appropriate technology operations. The role of state agencies is to create a favorable environment for safe food to circulate, develop appropriate legal and policy frameworks, encourage the private sector to participate in providing safe food, and provide timely and reasonable support. Additionally, a balanced, properly designed, and mandatory control system must be established and implemented to ensure safe food and build consumer trust, while minimizing undue interference in market function.

The current food supply system in many countries is largely dependent on imports or supplies from small-scale production facilities, making it difficult to ensure a safe food supply in the short term. Consolidating production systems to reduce dependence on food imports and micro-production facilities will accelerate the process of change, but it will take time. States should develop a risk-based control system that applies the principles of risk assessment, risk management, and risk communication developed by WHO and FAO's Codex Commission Framework.

Ensuring food safety is one of the tasks that the international community cares about and attaches importance to. Vietnam, like many countries, has a modern system of food safety laws but still needs further improvement to align with international regulations to ensure and better protect the right of people to consume safe food. This is also a requirement stated in the New Generation Free Trade Agreement. The tasks that countries need to focus on solving are to improve food safety management institutions, regulations on food imports, standards and technical regulations on food safety, and regulations on penalties for food safety violations. They must ensure that these mechanisms are

synchronous, uniform, and consistent with international legal instruments on consumers' right to food safety.

Finally, the relationship between human development and food safety can be from an ethical perspective, in which there is a trade-off between environmental sustainability and providing quality food for each individual.

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