

Food Adulteration in Bangladesh: A Step towards Development of Protection

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Abstract

Nowadays food adulteration is a serious problem in the country. It is done in various ways to gain profit quickly. Sometimes foods are given artificial colors to make them bright and attractive to the people. Even poisonous chemicals are used for this purpose. It is a serious threat to public health. It may cause fatal diseases such as kidney failure, cancer, and diarrhea and so on. Sometimes the adverse effect of adulteration is quick and sometimes slow. Adulteration is done in such a way that it cannot be understood easily. It should be stopped immediately. This paper is intended to focus on how law will become effective against adulteration, how people will be motivated against food adulteration. Recently some effective steps have been taken by Mobile Courts of the Bangladesh Standards and Testing Institution (BSTI) and consumer awareness which is able to reduce it to an extent. It is a national problem as it is directly related with human life of the whole country. So people should unitedly stand against for the prevention of food adulteration.

Keywords: Food Adulteration, Protection, Development, Laws and Responsibility.

1. Prelude

Food is a significant reason for the considerable number of diseases in the entire world. Bangladesh, a third world developing country of South Asia, is not an exception in this case. Consumption of unsafe food is a serious threat to public health in Bangladesh for last couple of decades. A survey conducted by the Institute of Nutrition and Food Science, Dhaka University (DU), in early 2005 had revealed that inadequate diets and intake of adulterated foods are responsible for the malnutrition of 60 per cent of the people of Bangladesh.¹ The Institute of Public Health (IPH) in Dhaka and the World Health Organization (WHO) in their joint study of 2005 on food adulteration tested 52 street vendors and found that, all of the vendors' food samples were contaminated with different types of disease breeding micro-organisms.²

Especially children are more vulnerable than adults as unsafe food is a major cause of child mortality. Universally it is accepted that, unsafe food is an important factor of malnutrition, which causes various types of serious illnesses including diarrhoea along with other permanent consequences for the human body. In a study recognized by the GOB portrayed

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¹ A report of World Health Organization with the collaboration of University of Dhaka, this report is available on WHO (Food Safety and Security) website, date: 23.2.2005

² Rahman, Shah Mahfuzur, Hoque, Md Asirul, and Amin, Md Ruhul Talukder, Food Security in Bangladesh: Utilization, Nutrition and Food Adulteration (paper presented at the National Workshop on Food Security, Dhaka, (2005), pp. 45.

the depressing picture of child mortality. Pointing the forefinger to the malnutrition as a significant cause of child mortality, this report mentioned that in every 19 children 1 child die before they complete five years. Given the numerous deaths and enormous sufferings of people caused by adulterated foods in Bangladesh, the regulators should not be allowed to avoid their responsibility to protect the people from such serious harm caused by the adulterated foodstuffs available to consumers. This is because the contribution of legal and regulatory failures in combating these human sufferings must be given due emphasis in any quest for a durable remedy against this evil.³

2. Objective of the Study

This study is being conducted to study the concept of food adulteration, government role and its effects on human lives. Further, what measures have been taken by the legislature and their legislations to prevent this increasing menace of adulteration? The objectives of this paper are as follows:

- a) to sort out challenges and prospects of this issue.
- b) the main agenda of the state government as well as the issue of food adulteration and of the plan to be taken in this regard.
- c) to protect the public from poisonous and harmful foods.
- d) to protect the interests of the consumers by eliminating fraudulent practices.
- e) food adulteration can be easily reduced by strict government laws.
- f) during Ramadan, run it just would not be anti-adulteration aristocracy, the aristocracy of the need to maintain the government's anti-adulteration.
- g) relentless enforcement of existing laws with the execution of highest penalty possible.

3. Meaning of Adulteration and Food Adulteration

“**Adulterate**” implies an element of deceit. According to the definition of Chamber's Dictionary it means “to debase, falsify by mixing with something inferior or spurious.”⁴ Adulterant means any material which is or could be employed for making food unsafe or sub-standard or mis-branded or containing extraneous matter.

Hence, the term “food adulteration” can be simply defined- as an act of intentional debasing the quality of food offered for sale either by the admixture or substitution of inferior substances or by the removal of some valuable ingredient. It also can be defined as the addition or mixing of interior harmful, substandard, useless or unnecessary substances to foods. Adulterated foods spoil the nature and quality of food items and are considered food adulteration. A substance added to a food-item to reduce its quality in order to increase its

³ “Bangladesh Demographic and Health Survey 2011: Preliminary Report,” National Institute of Population Research and Training, April 2012, pp. 27.

⁴The Chambers Dictionary, Please visit at http://en.wikipedia.org/wiki/Chambers_Dictionary (last visited 19 June 2016).

quantity is called as an adulterant the addition of adulterants is called adulteration. Any food item may be considered as adulterated if its nature and quality are not up to the standard. The meaning of adulteration varies from country to country on the basis of municipal law. If a food exceeds tolerances and regulatory limits of the country, it will be considered adulterated. It is to be noted that the basic contention of the term food adulteration is fully relevant and inter-related with the terms/factors like food safety and food security.⁵

From the Bangladeshi legal paradigm, in a strict sense, the word 'adulteration' has not been defined in anywhere of the laws prescribed. Nonetheless, by the practices, food adulteration in Bangladesh means adding harmful chemicals, toxic colors or harmful additives with the food. Section 3(1) of The Pure Food Ordinance, 1959, has disclosed under its clauses (a) to (h), eight circumstances under which an article of food shall be deemed to be "adulterated" if-

- a) any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength, or
- b) any substance has been substituted wholly or in part for it, or
- c) any of the normal constituents has been wholly or in part abstracted so as to render it injurious to health, or
- d) it is mixed, colored, powdered, coated or stained in a manner whereby damage or inferiority is concealed, or
- e) it does not comply with any standard provided by or under this Ordinance or any other law for the time being in force, or
- f) it contains or is mixed or diluted with any substance in such quantity as is to the prejudice of the purchaser or consumer or in such proportion as diminishes in any manner the food value or nutritive qualities which it possesses in its pure, normal and sound condition, or
- g) it contains any poisonous or deleterious ingredient including radiation which may render it injurious to health, or
- h) it is not of the nature, substance or quality which it purports to be or which it is represented to be by the manufacturer or the seller.⁶

Food borne diseases or food poisoning is mainly caused by pathogenic (harmful) bacteria, virus, or chemical toxins in food or water. Some of these microbes infect our bodies and hamper growth. The end result is illness and in very severe cases food poisoning may even cause death. An expert say that food that looks smells and tastes fine can cause food poisoning, if it has not been correctly prepared with genuine ingredients or not handled correctly or has been contaminated in some way. A great proportion of breaches of food safety lie in introduction of artificial or hazardous substances in food products or a food handler preparing food without washing their hands properly.

According to the US Federal Food, Drug, and Cosmetic (FD&C) Act, 1938, a food is "adulterated" if it meets any one of the following criteria:

⁵ Please visit at <http://who.int/trade/glossary/story028/en/> (last visited 28 May 2016).

⁶Section 3(1) of The Pure Food Ordinance, 1959

- a) it contains poisonous or deleterious substance causing injury to the health; or
- b) its container is composed of any poisonous or deleterious substance, or
- c) it contains - a) unsafe pesticide chemical residue, b) unsafe food additive, c) unsafe new animal drug, or d) unsafe color additive; or
- d) it consists of "any filthy, putrid, or decomposed substance" or is otherwise unfit as food; or
- e) it has been prepared, packed, or held under unsanitary conditions (for example, insect, rodent, or bird infestation), or
- f) it has been improperly irradiated ; or
- g) it contains a risky & improper dietary ingredients (for example, foods or
- h) dietary supplements containing aristolochic acids which are liable for kidney failure); or
- i) a valuable constituent in the food has been omitted in whole or in part or replaced with another substance (for instance, olive oil diluted with tea tree oil), conceals damage or inferiority in any manner (such as fresh fruit with food coloring on its surface to conceal defects); or any substance has been added to it or packed with it to increase product's bulk or weight, reduce its quality or strength, or make it appear bigger or of greater value than it is (for example, scallops to which water has been added to make them heavier).⁷

4. Nature of Food Adulteration in Bangladesh

Adulteration may occur in simple three following basic patterns:

- (a) By adding anything (various kinds of adulterants) with the food to deteriorate from the nature, substance and quality of the food desired by the purchaser;
- (b) By removing or reducing and substituting any element or ingredient from the food to deteriorate from the nature, substance and quality of the food desired by the purchaser;
- (c) By false representation of a completely different item to be a food of specific kind.

Firstly, adding adulterant is the main cause of food adulteration. Adulterants can be anything that will decrease the quality of the product. The addition of adulterant in food may be intentional or accidental. But generally the adulterate addition is intentional. The major reason for the intentional addition of these adulterants is for increasing the profit margin on the expense of the health of the public or consumer. If the adulterant is naturally present in a food in an amount not ordinarily making the food harmful for health, the food will not be deemed as adulterated.⁸ Adulterants may be solids, chemicals, liquids, coloring substances and preservative:-

Solids like sands, chalk-powder, crushed rocks, seeds of similar crops, bricks powder, wood powder, tamarind seed powder, detergent powder etc are mixed with grains or with powdery substances to increase the weight;

⁷Section 342, The US Federal Food, Drug, and Cosmetic Act, 1938.

⁸ Wikipedia, "Adulterated food" Please visit at http://en.wikipedia.org/wiki/Adulterated_food (last visited 12 June 2016).

The use of this chemical for this purpose is illegal in Bangladesh like most other countries. Preservatives- As per the rule 2(g) of the Pure Food Rules, 1967, Preservatives means 'any substance which is capable of inhibiting, retarding or arresting the process of fermentation, acidification or other decomposition or deterioration of food.' A preservative is a substance that is added to food to prevent decomposition by microbial growth or by undesirable chemical.⁹

- a. Coloring/flavoring reagents like textile and synthetic colors, dyes and pigments, toxic artificial flavor etc are added to improve the color of food items. These are added to food to give an attractive appearance. The gloss of these coloring and flavoring reagents in food item make them more bright and eye catcher and allure the purchasers to buy it.
- b. Pesticides and Insecticide are used at the time of farming of the plants or herbs for the purpose of the pest control. This is an indirect way of food adulteration like using growth hormone on the plants or herbs to enhance the production of the crops or fruits etc. DDT (di-chloro di-phenyl tri-chloro ethane), various chlorinated aromatic hydrocarbons and synthetic organic compounds etc are widely used in these purposes. These tend to persist in the plants or the environment at a whole as a residue and become concentrated in animals and human being at the head of the food chain.

Secondly, adulteration may also happen by removing or reducing and substituting a fair part or any ingredient of the food item, for instance- removing milk fat from the cow milk and buffalo milk to lower down its quality. Any food item (Sweetmeat, Sweetball, Kalakand, Channa, Curd, Yogurt, Cream etc) made of that kind of cow milk or buffalo milk never can reach the food value and fall very short of specified milk fat required and eventually results in adulterated food.

Thirdly, sometimes a completely different kind of thing can be represented as food item of a specified kind. For example- condensed milk as we know it in our country has no element of milk at all in it. BSTI's license conditions requires that- the condensed milk must contain 8% milk fat, extracted either from cow or buffalo milk.¹⁰ The Pure Food Ordinance has a higher standard than those of BSTI in case of Condensed Milk. In the year 2003 the condensed milk producing companies in Bangladesh demanded making a new standard for them by BSTI so that they could produce condensed milk with vegetable fat, arguing that such production is seen in Malaysia. Considering the health consequences, the BSTI rejected the appeal, prompting the companies to file a writ petition with the court that is yet to settle the case. Thus, the companies continued producing and marketing condensed milk with palm or *soya* bean *fat*. Then water, palm stearin (instead of edible palm oil) and sugar are added to make

⁹ Wikipedia, "Preservative" Please visit at <http://en.wikipedia.org/wiki/Preservative> (last visited 12 June 2016).

¹⁰ 'Health Hazard of Formalin' Please visit at <http://dhakatribune.com/food/2014/aug/11/saga-so-called-condensed-milk#sthash.3Jr1o1KZ.dpuf> (last visited 12 June 2016).

condensed milk which is simply poisoning the people as the palm stearin is not edible; it is used in detergent making!¹¹

5. Food Adulteration: How & When

Food adulteration is an unethical business practice. It may occur at any time or any layer along the entire supply chain of the food, from producer to consumer and from Farm to market. Food or food product may reach to its consumers through any of the following ways mentioned in the table:

Table-1:
Distribution of Food from the Farm/Production to the Fork

Farmer / Producer	Farmer/ Producer	Farmer/ Producer	Farmer/ Producer
			To Agents/Brokers
			To Manufactures
		To Wholesalers	To Wholesalers
	To Retailers	To Retailers	To Retailers
To Consumers	To Consumers	To Consumers	To Consumers

From the table we see, any food or food product may reach from the farmer or its producer-

- 1) Directly to the hands of the consumers or
- 2) First to retailers and then to consumers or
- 3) First to wholesalers, then to retailers and at last to consumers or
- 4) First to local agents or brokers then to manufacturers later on to wholesalers, then to retailers and at last to consumers etc.

So, adulteration of food may happen in any of the layers or steps in the process of reaching the food from the farm or production to the fork of the consumers shown above. Any one or several of the farmer/producer, retailer, wholesaler, manufacture, agent/broker may cause the adulteration of food in a way of adding adulterant; removing or reducing and substituting any element thereto; or false representation of any item as food with intention of malice of extra profit making. Say for an example- mango fruits are collected from various gardens(from farmers) of Rajshahi and Chapainawabganj districts by the local agents. Before shipment some of mangoes may make calcium carbide or/and formalin tainted by the dealers. Same may be done during the change made in between the wholesalers and retailers.

Again, food adulteration also may happen in the following stages by the ill will of the farmer/producer or agent/broker or manufacture or wholesaler or retailer at-

- a) Primary production stage;
- b) Post-harvest food handling, preservation, processing, packaging, transport, storage and distribution;

¹¹*Ibid*, p. 56.

- c) Food Services Sector- Fresh produces, semi-processed, processed, ready to eat, hotel, restaurant, street foods etc.¹²

6. Effects of Food Adulteration in Bangladesh

Followings can be the probable results of food adulteration-

- a) Consumers are cheated by the traders. Consumers take impure, unsafe and incomplete food;
- b) Reduces the quality of the food and this weakens the health of the consumers and thereby increases the cost for healthcare;
- c) Regular intake leads to many health problems from curable to incurable disorders and can ruin one's lifestyle and life as well;
- d) The adulterated foods both fresh and processed are nutritionally poor. Food adulteration poses a very serious health hazard. Use of non-permitted chemicals causing a number of diseases including cancer, convulsion and miscarriage, respiratory problem, disorder of some organs of the body;¹³
- e) Consumption of adulterated food items may precisely cause asthma, sore throat, larynx constriction, bronchitis, skin infection, allergic reaction, diarrhea, haematuria, circulatory failure, numbness, dizziness, kidney failure, stomach, cancer, nervous disorder and other diseases;¹⁴
- f) Adulteration in food decreases our moral and social values. A large number of people and companies are engaged in this kind of black business of adulterated food production, manufacture, wholesale and retailing. The entire chain makes involved a lot of people in a criminal act which requires a tremendous government effort with a proper infrastructure to combat this.¹⁵

7. Legal Frame Work to Combat Food Adulteration in Bangladesh

Food adulteration is an act of dishonest tradesmen who intend to make unscrupulous profit from minimum investment. Random manufacture of adulterated foodstuffs unsuitable for human consumption demands strong regulatory mechanism to maintain a standard of purity for the preservation of public health. In Bangladesh, legal environment of food safety and quality control consists of Laws, Regulations & Standards, Administration & Inspection and Laboratory analytical services. In Bangladesh the governance and legal frame work to combat food adulteration can be described under the following heads:

- a. The Food Safety Act, 2013
- b. The Constitution of the People's Republic of Bangladesh, 1972
- c. The Penal Code, 1860

¹²Sobhani, M.Mahboob., 'Food Adulteration: The Bangladesh Paradox' (2015) *Bangladesh Journal of Law*, pp. 6-7.

¹³*Supra* note 10

¹⁴*Supra* note 10

¹⁵*Supra* note 10

- d. The Bangladesh Pure Food Ordinance, 1959
- e. The Food (Special) Court Act, 1956
- f. The Control of Essential Commodities Act, 1956
- g. The Special Powers Act, 1974
- h. The Bangladesh Standards and Testing Institution Ordinance (BSTI), 1985
- i. The Mobile Court Act, 2009
- j. The Consumer Rights Protection Act, 2009

7.1. The Food Safety Act, 2013

The Food Safety Act 2013 has also been enacted in Bangladesh through repealing and re-enacting the existing outdated laws in this regards. This 2013 Act has been enacted to form an authority that would ensure generous efforts to the food control agencies, food business operators and people of the country towards achieving the landmark goal of founding a Modern and Technological Food Safety System in Bangladesh as required for the government's vision 2021. Accordingly under the 2013 Act, the Bangladesh Food Safety Authority (BFSA) has been formed in 2015.

7.2. The Constitution of Bangladesh

Article 15 of the Constitution of Bangladesh provides basis for right to food under the title 'Provision of basic necessities' which speaks that 'It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens.

The provision of the basic necessities of life, including food, clothing, shelter, education and medical care.¹⁶Article 18(1) of the Constitution speaks that 'the state shall raise the level of nutrition and improve public health as its primary duties'. It shall also adopt effective measures to prevent the consumption of harmful drugs, drinks and alcohols. Both the articles imply food safety requirements for consumers.¹⁷Article 27 states that "All Citizens are equal before law and are entitled to equal protection of law."¹⁸

7.3. The Penal Code, 1860

The Penal Code, 1860, provides punishment for adulteration of food or drink in section 272 and 273 under this Act:

Adulteration of food or drink intended for sale- "Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be

¹⁶ Constitution of the People's Republic of Bangladesh, 1972, Article 15

¹⁷ Constitution of the People's Republic of Bangladesh, 1972, Article 18

¹⁸ Constitution of the People's Republic of Bangladesh, 1972, Article 27

punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.¹⁹

Mere possession of any alleged adulterated food of any premise by itself will not constitute an offence under section 272 of the Penal Code and section 25(a) of the Special Power Act, 1974 unless it is alleged and proved that a particular person or a group of person were personally involved in the process of adulteration of food or selling thereof.²⁰

Sale of noxious food or drink- “Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a State unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand taka, or with both.”²¹

7.4. The Pure Food Ordinance, 1959

The Ordinance aims to ensure purity of food being supplied to people in the market and, therefore, provides for preventing adulteration. The term ‘food’ is comprehensively defined in Section 3(5) of the Ordinance. Public food analysts are appointed to monitor food safety at the food shops, restaurants etc. Manufacturing of adulterated foods, their distribution, sales etc. causing malnutrition and injury to the public health have been made prohibited and punishable under the Ordinance. A consumer or purchaser of alleged adulterated food has the right to laboratory examination of the foods purchased. Food Inspector or any authorized person may prevent selling of adulterated foods and seize those if appropriate. Pure Food Court (popularly, mobile court) administered by a First Class Magistrate is empowered to try the offences relating to food safety and injury Food Inspector or any authorized person may prevent selling of adulterated foods and seize them if appropriate. Inspector or a person authorized by the Government can lodge complaint to the court. Punishment includes imprisonment or fine or both.²²

7.5. The Food (Special) Court Act, 1956

The Food (Special Courts) Act, 1956, is supplementary to the control of essential commodities Act, 1956, and provides for setting up of special courts headed by a special magistrate for speedy trial of offences in relation to foodstuffs. Punishment under this Act is an imprisonment for a term which may extend to three years or with fine or with both.²³

¹⁹ The Penal Code, 1860, s. 272.

²⁰ *Mohammad Nazarul Islam v. The State* 3 BLD (HCD) 65 at 679.

²¹ The Penal Code, 1860, s. 273.

²² The Pure Food Ordinance, 1959, s. 40, 41, 41(A), 44, 45.

²³ The Food (Special) Court Act, 1956, s. 6.

7.6. The Special Powers Act, 1974

The Special Powers Act, 1974, makes hoarding & black-marketing of foods punishable with death or life imprisonment or 14 years rigorous imprisonment or with fine. Similar punishments are made for adulteration of or sale of adulterated food, drink, drugs or cosmetics. Such offences are triable by the Special Tribunal headed by the Sessions Judge or Additional Sessions Judge.²⁴

7.7. The Bangladesh Standards and Testing Institution (BSTI) Ordinance, 1985

Bangladesh Standards and Testing Institution (BSTI) is the national standardization organization in the country working under the administrative control of the Ministry of Industries, Government of Bangladesh. In 1985, BSTI started its journey by merging CTL and BDSI under the BSTI Ordinance 1985. After that in 1995 Department of Agriculture, Grading and Marking was merged with BSTI.²⁵ A number of laws and regulations govern the activities of BSTI some of which may be mentioned below:

- a) The Bangladesh Standards and Testing Institution Ordinance, 1985 (as amended up-to-date)
- b) The Standards of Weights and Measures Ordinance, 1982 (as amended up-to-date)
- c) The Bangladesh Standards and Testing Institution Regulation, 1989
- d) The Bangladesh Standards of Weights and Measures (Amendment) Rules, 2006
- e) The Bangladesh Standards of Weights and Measures (Package Commodities) Rules, 2007

The Council is the highest decision-making organ of BSTI. It may exercise all powers and perform all functions that might be exercised or performed by the institution. The Council works through various committees. BSTI is headed by a Director General who is its principal executive officer and is responsible for its proper administration. The institution discharges its responsibilities through 06(six) wings. Under these 06 wings there are 21 divisions or sections such as standards wing, physical testing wing, chemical testing wing etc. Headquartered in Dhaka, the Institution has 06 regional offices at 06 Divisional Headquarters and 03 district offices at 03 district headquarters.²⁶

The main functions of the BSTI are *inter alia*:

- a) formulate national standards of industrial, food and chemical products,
- b) quality control of the products as per specific national standards; and
- c) implement metric system of weight and measures in the country.

²⁴The Special Powers Act, 1974, s. 26, 27, 28, 29, 30, 30(A).

²⁵“BSTI” Government of Bangladesh, Please visit at <http://bsti.gov.bd/about.html> (last visited 15 June 2016).

²⁶The Bangladesh Standards and Testing Institution Ordinance, 1985.

7.8. The Bangladesh Standards and Testing Institution Ordinance (BSTI) Versus Pure Food Laws

The ordinance of Bangladesh Standards and Testing Institution relates to establishment of an institution for standardization, testing, metrology, quality control, grading and marking of goods. Within the framework of this ordinance, the government has established the Bangladesh Standards and Testing Institution (BSTI). One important task of this organization is to certify the quality of commodities, materials, whether for local consumption or for export and import.

It may be noted that almost in all cases food articles were sent for examination the public analyst certified them as ‘adulterated’. Most surprisingly, many food products, which have passed the BSTI test, the public analyst termed them ‘adulterated’. It reveals an ostensible conflict of standard between the BSTI and the public analyst appointed under the Bangladesh Pure Food Ordinance, 1959, which needs to be refuted by proper legislative amendments.²⁷ Besides the Pure Food Ordinance, 1959 and the Pure Food Rules, 1967 are the basic and fundamental laws to directly operate the legal functionaries to curb and remedy the widespread evil of food adulteration and thereby to protect and preserve public health.²⁸ Cantonment Pure Food Act, 1966 and the Cantonment Pure Food Rules, 1967 have a very rare application. Section 25C and 26 of the Special Power Act, 1974 are found to be the repetition of the concern law with just separate forum of trial.

8. Role of Mobile Court to Protect Adulterated Types of Foods

Mobile court is not a new phenomenon rather it has antique sporadic legacy in various statutes and legal traditions in Bangladesh and elsewhere like India, United Kingdom, etc. At the infancy stage of mobile court, we discover multi- dimensional problems in terms of its functioning, legal basis, logistic support, acceptance to the vested segment and people at large. But notwithstanding these multi-faceted acid tests, mobile court takes place an unparallel and distinctive place to protect and preserve consumer protection, sound public health, law & order situation and ultimately justice through the proper enforcing of existing concomitant laws. This is high time for all of us to launch profound research and investigations to find out its lacunae so as to establish a full-fledged and robust socio-legal background for mobile court so that it can work with its full bloom. According to Dr. Borhan Uddin Khan “mobile court can be compared as a mobile phone which is easily moveable to enforce laws as a supplementary and complementary maneuver of court as we understand Court derives from the Latin cohorts meaning a yard and the retinue or persons (a cohort) which gathered in the enclosed place.”²⁹

²⁷ Khan, Nazrul Islam., ‘Food Adulteration: A review of the prevailing legislations’ (2012) *Dhaka courier*, pp. 23.

²⁸ Masud, A.R., *The Pure Food Laws*, 1st Edition, (Anupam GyamBhandar: 1995, Dhaka), p. 29.

²⁹ Dr. Borhan Uddin Khan, Seminar on *Role of Mobile Courts in the Enforcement of Laws in Bangladesh* held on 2nd June, 2007 at Law Faculty at Eastern University.

9. Protection of the Consumer Rights in Food Adulteration

Consumer is a person who consumes or uses any commodity or service available to him either from natural resources or through a market for final consumption. It gives Protection to the Consumers against the violation of their right and being injured by the unfair trade practices of the seller or service provider. It does not mean that consumer right has not protected before Act was passed. People of Bangladesh had been protected try various Acts such as -Constitution of Bangladesh, Sale of Goods Act, Pure Food Ordinance, Penal Code etc. But rights of the Consumers were not well protected by those Acts. After the enactment, people got a written or existing Act and protected under this Act. There are three aspects of consumer rights protection, which every country must consider:-

- a. Voluntary Protection
- b. Institutional Protection
- c. Statutory Protection

First, the aspect of ‘voluntary protection’ which means that consumer’s themselves would voluntarily set up associations and/or organizations to safeguard their own rights and interests. These associations/organizations generally work as pressure groups on the government for consumer rights issues. There are many such voluntary organizations in India, Sri Lanka and other countries of the world. In Bangladesh, the Consumers’ Association of Bangladesh (CAB) was established in 1978.

Second, the aspect of ‘institutional protection’, by establishing national institutions to safeguard and promote consumer rights of citizens this aspect of consumers’ protection can be ensured. For example, in 1914 the Federal Trade Commission, in 1927 the Food and Drug Administration and in 1970 the National Highway Traffic Administration were set up in the USA; the United Kingdom established the office of Director-General of Fair Trading; Sweden set up the Consumer Agency KOV and Consumer Ombudsman KO; India established National Consumer Protection Council, various State Consumer Protection Councils, National Consumer Disputes Redressal Commission with State Commissions and District Forums; Sri Lanka and Nepal set up the office of the Commissioner of Internal Trade and the Consumer Protection Council respectively. Though there is lot of organization working for human rights in Bangladesh but no organization except Consumer Association of Bangladesh (CAB) working for consumer rights. Third, the aspect of ‘statutory protection’, which can be guaranteed by enacting relevant laws for protecting the rights and interests of the consumers. Many countries of the world, including those in Asia, have already enacted comprehensive laws in this regard. For example, the Consumer Protection Fundamental Act 1968 in Japan, Consumer Protection Act 1979 in both Thailand and Sri Lanka, Consumer Protection Act 1986 in India, Consumer Act of the Philippines 1990 in the Philippines, Consumer Protection Act 1998 in Nepal, The Law on Consumer Protection 1999 in

Indonesia and Consumer Protection Act 1999 in Malaysia were enacted. However, Bangladesh is yet to enact such a comprehensive Consumers Protection Act.³⁰

The culture of consumerism is seemingly unknown in Bangladesh. Ill-fated consumers are completely cheated at almost every level of service sectors including food safety, transportation, healthcare, education, access to justice, housing and what not. Consumer rights are considered as fundamental rights to life. Therefore, promotion and protection of these rights are essential for the life of every citizen. The Consumer Rights Protection Act 2009 was enacted with the intention to protecting the legitimate interests of consumers. The Act comprehensively deals with the protection of consumers' rights from the grip of greedy traders. It categorically identifies some acts or omissions as violation of consumer rights. The National Consumer Rights Protection Council (NCRPC or Council) has been set up to monitor the state of protection of consumers' rights in the country. The Council comprises members from various quarters such as different ministries, National Security Intelligence, BSTI, Consumer Association of Bangladesh (CAB), NGOs, law enforcing agencies and different trade bodies etc.³¹

10. Outcomes

In Bangladesh, there are so many existing laws related to food. According to the Food Safety Ordinance 2005, of all types of toxic chemical elements (such as calcium carbide, formalin, itephana, pesticides) banned use of food. By studying in depth on the adulterated foods in Bangladesh, many finding are identified which are summarized below:

- a) Lack of sustained and appropriate implementation by credible authority.
- b) Ill-mentality of gaining super profits at any cost.
- c) Only 8 countries among 160 parties of the International Covenant on Economic (ICE), Social and Cultural Rights (SCR) ratified the Optional Protocol to the ICESCR and Bangladesh is not one of them.
- d) Compromising attitude of consumers.
- e) Lack of integration between the Bangladesh Pure Food (Amendment) Act 2005 and BSTI law results in punishment of manufacturers and retailers for products certified by the BSTI which creates conflict and confusion regarding role and power of the stakeholders.³²
- f) Weak coordination among activities like plant quarantine, food control, standards, enforcement and labs.
- g) Weak Consumer public awareness programs.
- h) Compliance high-cost.

³⁰*Supra* Note 29.

³¹*Supra* Note 29.

³² The Daily Star, Food safety law with some teeth: Stringent enforcement key to success, 3 July, 2013, pp. 12. Please visit at <<http://www.thedailystar.net/beta2/news/food-safety-law-with-some-teeth/>> (last visited 3 August 2016).

- i) Financial resource constraints.
- j) Lack of Technology Improvement Research.
- k) Poor knowledge of standards, laws/regulations among the producers and consumers.
- l) Weak food inspection and enforcement services.
- m) BSTI authority claims that they do not have enough manpower to carry out the job to control food safety in the industry.
- n) Multiplicity of Laws. As a minimum 15 laws (excluding the common law provisions) govern the current legal framework of food safety in Bangladesh, which are expected to be coordinated by the Safe Food Act, 2013.
- o) The lack of coordination areas of responsibility among the multi-sectoral agencies dealing with food safety is one of the reasons for the failure of whole food safety arrangement in Bangladesh as it results severe complexity which is expected to be coordinated by Bangladesh Food Safety Authority proposed in the approved Safe Food Act, 2013.
- p) Political influence and corruption of government officials.
- q) Only a few laboratories in Bangladesh are well equipped and well maintained. Often they suffer shortages of maintenance budget, inadequacy of technological resources, lack of coordination in procedures or methods of testing.

11. Positive Initiatives

It is hard to eradicate food adulteration from a third world country like Bangladesh. Nonetheless, to ameliorate the worsening conditions of adulterated food in Bangladesh, the following recommendations are suggested:

The consumers must give up the Compromising attitude towards food adulteration. Implementation strategies of laws must be outlined clearly for a better enforcement regime so that all instances of non-compliance can be easily identified and action taken promptly by the proper authority. Pure food Courts being the Courts of original jurisdiction, only deal with the Pure Food Ordinance. Every Pure Food Court must be given power take cognizance and dispose any complaint under all the food related laws of land. Thus it will be a single forum to deal with all related matters or laws of food sector. Good governance must be established to ensure safe and hygienic food for consumer. Class I magistrates or sessions judges will be placed in each court, with power to follow the procedure of summary trial as prescribed in the Code of Criminal Procedures. Massive awareness program should be taken to enhance civic knowledge and to cooperate with mobile court. Government must take the Pure Food Ordinance as the only governing law of the food sector in real essence. BSTI's interference in setting standard or procuring parallel certificate of standard of food in breach of the Pure Food Ordinance must be stopped. The Food Safety Act, 2013, concerned rules of the Act and Formalin control Laws should be made operative as early as possible. Government must ensure transparency and accountability in inspection procedure, analysis of food and prosecution method. Offenders must be prosecuted indiscriminate to any consideration.

Credible laboratory services for food analysis and risk based food inspection system to be in place. Well-equipped laboratories for every kind of food analysis such as- tests for formalin, carbide, DDT, preservative and color check, with skilled personnel's must be established in each district all over Bangladesh. Power of cancellation of the trade license or to make such recommendation to the concerned authority for persistent offenders (the owners of the companies) should be given to the Pure Food Courts. Awarding exemplary punishment to those who contaminate food items with formalin and other toxic chemicals the penalties need to include rigorous imprisonment for long periods and relatively heavy fines. Even life sentences should be considered in cases weighing the consequences of the offences on victims. Carriage of food especially fruits, fresh vegetables, milk, fish etc should be given preference at the time of transportation as if those can reach the destination without delay. Then it will be no more required to add preservative, formalin, DDT etc to increase the life span of that food. Appropriate laws should be adopted and implemented effectively and obstacles in its way should be removed as far as possible. Proper training containing manuals, materials and practical demonstration should be arranged for farmers, food processors, government regulators, policy-makers, vendors and other persons involved in the system for compliance. National parliaments should be encouraged to work towards the adoption of framework laws that establish a participatory mechanism aimed at the adoption of a national strategy for the realization of the right to food. The government and regulatory bodies must be driven by professional obligations not by media propaganda. Above all primary and secondary school textbooks, education and awareness of issues relating to adulteration may be included. They should be interested in the study of ethics. A popular cartoon or other school-going children, ranging from the cartoon may be trying to spread awareness.

12. Conclusion

The people of Bangladesh have legitimate expectation to get the food free from adulteration as per constitutional right. This is the responsibility of the state apparatus to ensure that for the common people. Food adulteration can be substantially combat by the legal paradigm presently have with few renovations of law. It is very important, how these laws are being implemented by the state. No more hyperactive drives without following the spirit of law by the Mobile Courts are expected, because judicially established Courts are there to act under the protocol of law. The manufacturers and producers should not hanker after money by the way of delivering adulterated food to the innocent people. Let us live and let others live on food free from adulteration of any kind. As Virginia Wolf, famous English writer said while describing food as medicine.