

## **Food Adulteration and Right to Food Safety in Bangladesh: An Analysis of Legal Frameworks**

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### ***Abstract***

*The concept of food as a human right, rather than merely a basic necessity of life, has become widely accepted by different countries all over the world during the last few decades. Recently Bangladesh has been graduated from the Least Developed Country (LDC) to a Middle Income Country (MIC) in the South Asian region where its citizens have been experiencing severe and chronic food safety crisis for many years because the food manufacturers have extensively been producing huge adulterated and unhygienic food products by deliberately ignoring the existing legal frameworks of the country. Therefore, in recent times issues concerning food adulteration and right to food safety are prioritized by the Government of Bangladesh (GoB) so that the burden of food-borne diseases on public health can be decreased and the overall national productivity of the country can also be increased. Since there exists no integrated legal framework to address the food adulteration and food safety matters in Bangladesh, an effective and comprehensive legal framework is indispensable with a view to ensuring safe food for all individuals and eventually guaranteeing a healthy nation. However, this piece of academic research intends to make a thorough and critical analysis of the existing legislative frameworks with regard to the prevention of producing and manufacturing adulterated food stuffs and right to food safety in Bangladesh. This study also strives to find that the existing regulatory frameworks regarding the enforcement of food safety laws are practically ineffective to some extent due to the fact that these laws only offer the direct criminal penalty for any kind of infringement. Finally the study suggests that, in order to govern the food safety issues properly Bangladesh does not require a large number of rules and regulations; rather a timely, well-framed and effective legislation in meeting the current needs of the consumers and manufacturers of food products will suffice.*

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## **Introduction**

Food is a substance which is consumed to provide nutritional support for the human body. It is a basic necessity of every human being and should be made available to all without any discrimination as to race, caste, sex, language, religion, and nationality.<sup>1</sup> Right to food is one of the human rights to which all people are entitled simply by virtue of being born as human beings though in the context of Bangladesh ‘right to food’ is enunciated as only one of ‘Fundamental Principles of State Policy’ in the Constitution which is not enforceable in nature.<sup>2</sup> Adulteration of food is a major dimension of ‘right to food’ and it is a serious violation of this right which has now become a major threat to the public health in Bangladesh. Restricting the consumer rights to prosecute the offenders with regard to food safety has been a long tradition in Bangladesh.<sup>3</sup> During the last several decades Bangladesh has been suffering from the problem of extensive food adulterations. The recent studies also reveal that huge deaths together with physical illnesses have been taking place due to these occurrences of continuing food adulteration. Though a number of measures have been taken by the GoB by amending the food safety regulations of Bangladesh to combat this challenging issue, regrettably the situation has hardly been changed and it is getting worse gradually.<sup>4</sup> Since every human being has the intrinsic right to live until their natural death, this situation should not exist forever. This present study tries to explore the present scenario of food adulteration and enforcement of the right to food safety of the people of Bangladesh. It also strives to demonstrate the shortcomings of the existing legal frameworks and challenges of implementation of these laws as well.

## **Right to Food Safety and Food Adulteration in Bangladesh: Present Scenario**

According to Menghistu (1985), ‘the right to life is the most basic, the most fundamental, the most primordial and supreme right which human

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<sup>1</sup> Shirazee, S. A. (2018, October 17). ‘Right to Food in Bangladesh’. *The New Age*. Retrieved from <http://www.newagebd.net/article/26293/right-to-food-in-bangladesh>.

<sup>2</sup> Chowdhury, M. F. I. (2014). Evaluating Position of Bangladesh to Combat ‘Adulterated Food’ Crisis in Light of Human Rights. *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 19 (3), 45 - 54.

<sup>3</sup> Rahman, M. (1994). ‘Consumer Protection in Bangladesh: Law and Practice’. *Journal of Consumer Policy*, 17(3), 359 - 360.

<sup>4</sup> Ali, A. N. M. A. (2013). Application of Responsive Regulation in the Food Safety Regulations of Bangladesh. *Journal of South Asian Studies*, 1(1), 1.

beings are entitled to have and without which the protection of all other human rights becomes either meaningless or less effective'.<sup>5</sup> It is now widely accepted that the right to consume 'safe food' is a crucial right in the modern age. Though different national and international human rights instruments recognize the right to food, they do not provide any universally accepted definition of this right.<sup>6</sup> In Bangladesh the issue of food adulteration and right to food safety has become quite extensive and growingly serious concern for its citizens nowadays.

Different studies conducted over the last few decades disclose the dreadful effects of adulterated foodstuffs on the citizens of Bangladesh. For instance, a study conducted by the Institute of Nutrition and Food Science, University of Dhaka revealed that insufficient diet and consumption of adulterated foods were responsible for the malnutrition of 60% of the country's population.<sup>7</sup> This statistics impliedly demonstrates that the situation of the prevailing food adulteration concerns in Bangladesh has not been improved over the past 10 years.<sup>8</sup> An official statistics published by the Ministry of Health and Family Welfare of the GoB revealed that nearly half of the food samples have been found adulterated when tested by the IPH between 2001 and 2009.<sup>9</sup> In fact, the entire food industry seems to have been deliberately ignoring the existing food safety regulations for ages in Bangladesh where though few violations have occurred out of ignorance, most of them are intentional.<sup>10</sup>

In a recent test conducted by the Institute of Public Health (IPH) of Bangladesh, adulteration has been found in all 43 consumer goods and the rate of adulteration is 40% and nearly 100% adulteration found on 13

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<sup>5</sup> Menghistu, F. (1985). The Satisfaction of Survival Requirements. In Ramcharan, B. G. (eds.), *The Right to Life in International Law* (p. 63). Martinus Nijhoff Publishers.

<sup>6</sup> Shafiq, A. B., and Afroz, S. (2017). 'The Right to Food in Bangladesh: Justifying Human Rights Based Approach'. *Journal of the Asiatic Society of Bangladesh (Hum.)*, 62(2), 183 - 203.

<sup>7</sup> Ali, Q. M. (1984). 'Some Aspects of Consumer Protection in Bangladesh'. *Dhaka University Studies*. Part – C, 111.

<sup>8</sup> Ali, A. N. M. A. (2013). 'Food Safety and Public Health issues in Bangladesh: A Regulatory'. *European Food and Feed Law Review*, 8 (1), 31 - 40.

<sup>9</sup> Directorate General of Health Services (2012). 'Public Health Interventions by Selected Institutions'. Government of the Peoples' Republic of Bangladesh, 6.

<sup>10</sup> Huda, S. S. M. S., Muzaffar, A. T., and Ahmed, J. U. (2009). 'An Enquiry into the Perception on Food Quality among Urban People: A Case of Bangladesh'. *African Journal of Business Management*, 3 (5), 227 - 228.

items among the 43 consumer goods tested.<sup>11</sup> In another study conducted in 2013 it was estimated that more than 30 million people in Bangladesh has been suffering from kidney diseases due to adulterated foods.<sup>12</sup> Moreover, a research conducted by the National Food Safety Laboratory at IPH in 2016 found toxins, e.g. aflatoxin, coloring agents, formaldehyde and pesticide residues in approximately 25% of the 15 food commodity samples tested.<sup>13</sup> Moreover, the Transparency International Bangladesh (TIB) has disclosed that at least 4.5 million people were the direct victim of consumption of tampered foodstuffs in Bangladesh.<sup>14</sup> Thus, it appears that unsafe and adulterated foods notably contribute to malnutrition, which permanently handicaps people, retards physical and psychological development, affects growth of brain cells, and causes blindness and other diseases.<sup>15</sup>

### **Adverse Impacts of Food Adulteration on the Peoples of Bangladesh**

Adulterated foods have various direct and indirect lethal effects, e.g., on public health, environment, education, income producing capacity and on the overall economy of the country. The major effects of unsafe foods on public health will be discussed usually in this section. Since unsafe food stuffs are available everywhere in Bangladesh, nobody is safe from the adverse impacts of consuming adulterated foodstuffs in this country. In Bangladesh, it is argued that many people die every year for reasons related to food adulteration, which it is argued is a kind of ‘silent genocide’.<sup>16</sup> Actually the entire food industry seems to have been

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<sup>11</sup> Shuchi, N. T. (2017). ‘Food Adulteration: A Serious Health Risk for Bangladesh’. Retrieved from <http://www.risingbd.com/english/Food-adulteration-A-serious-health-risk-for-Bangladesh/42249>.

<sup>12</sup> Bashar, A. I. (2017). ‘Food Safety Laws of Bangladesh: A Critical Evaluation’, *Legal Essay Competition*, Society for Critical Legal Studies (SCLS). Retrieved from <http://sclsbd.org/food-safety-laws-bangladesh-critical-evaluation/>.

<sup>13</sup> Ahmad, R. (2016, September 24). “Ensuring Safe Food a Far Cry”. *The Daily Star*.

<sup>14</sup> The Daily Star (2014, March 22). ‘Food Safety Remains under Strain, New Food Act shouldn’t be Toothless’. Retrieved from <http://www.thedailystar.net/food-safety-remains-understrain-16632>.

<sup>15</sup> Ziegler, J. et. al. (2011). *The Fight for the Right to Food: Lessons Learned*. Palgrave Macmillan, 2.

<sup>16</sup> FE Report (2010, August 5). ‘Speakers Liken Food Adulteration to Genocide’, *The Financial Express* (online), Retrieved from [http://www.thefinancialexpressbd.com/more.php?page=detail\\_news&news\\_id=108092&date=2010-08-05](http://www.thefinancialexpressbd.com/more.php?page=detail_news&news_id=108092&date=2010-08-05).

deliberately ignoring for ages the existing food safety laws in Bangladesh though few violations have resulted out of ignorance, most of them are intentional.<sup>17</sup>

Therefore, Bangladesh which has an abundance of adulterated foods, cannot deny the contribution of unsafe foods to malnutrition. It is universally accepted that an important factor in malnutrition is unsafe food, which causes different kinds of severe illnesses including diarrhoea and it has other more long lasting impacts for the human body.<sup>18</sup> Powell (2007) asserts that proper handling of foodstuffs can indirectly remedy the nutrition problem, as contaminated foods can have serious impact on public health.<sup>19</sup> The World Health Organization (WHO) expressed its concern as to the impact of food safety upon the public health in Bangladesh and reveals that unsafe food can be a vital reason of many chronic diseases including but not limited to diarrhoea, cancer, heart diseases, various kidney diseases and birth defects.<sup>20</sup>

### **Food Safety Laws in Bangladesh: An Overview and Analysis**

In order to establish an efficient and effective authority for regulating through coordination the activities relating to food production, import, processing, stock, supply, marketing and sales, the government has been pleased to enact the following acts, rules, and regulations:

#### ***The Constitution of the Peoples' Republic of Bangladesh (1972)***

The right to food is enshrined as a fundamental principle of state policy in Article 15 of the Constitution of Bangladesh, and the right to safe food has been read into the right to life, guaranteed under Article 32, by the Supreme Court of Bangladesh.<sup>21</sup> Article 15 of the Constitution of Bangladesh provides basis for right to food under the title 'provision of

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<sup>17</sup> Huda, S. S. M. S., Muzaffar, A. T., and Ahmed, J. U. (2009). 'An Enquiry into the Perception on Food Quality among Urban People: A Case of Bangladesh'. *African Journal of Business Management*, 3 (5), 227 - 228.

<sup>18</sup> Motarjemi, Y. et. al. (1993). 'Contaminated Weaning Food: A Major Risk Factor for Diarrhoea and Associated Malnutrition'. *Bulletin of the World Health Organization*, 71(1), 79, 79.

<sup>19</sup> Powell, C. (2007). 'Nutrition'. In Markle, W. H, et. al. (eds.), *Understanding Global Health* (p. 104, 122). McGraw-Hill Companies.

<sup>20</sup> "Sustainable Development and Healthy Environment: Food Safety", World Health Organization: Country Office for Bangladesh, Retrieved from <http://www.ban.searo.who.int/en/Section3/Section40/Section104.htm>.

<sup>21</sup> Hossain, S. (2015). 'The Right to Food: Legal Protection in Bangladesh'. Bangladesh Legal Aid and Services Trust (BLAST) and Campaign for Right to Food & Social Security (RtF&SS), 8.

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 - (a) the provision of the basic necessities of life, including food, clothing, shelter, education and medical care".<sup>22</sup> Conversely, Article 18 of the Constitution provides that "The state shall raise the level of nutrition and improve public health as its primary duties". Both the provisions imply food safety requirements for the consumers.

### ***The Penal Code (1860)***

Though the Penal Code (1860) is the first legislation to establish food adulteration as a punishable offence in Bangladesh, it seems that the statute has failed to distinguish and categorize the offences considering their *mens rea* requirements and level of penalties. Sections 272, 273, 274, 275, and 276 of the Code have provided for provisions of punishments for the crimes of adulteration of food or drink intended for sale, sale of toxic food or drink, adulteration of drugs, sale of adulterated drugs, and sale of drugs as a different drug or preparation. The common punishments for these crimes are just 6 months imprisonment or Tk1,000 as fine, or both which can hardly be considered to be effective in terms of gravity of the crime.

### ***The Food Safety Act (2013)***

The Parliament of Bangladesh has passed the Food Safety Act (2013) on 10<sup>th</sup> October, 2013 which came into effect on 1<sup>st</sup> February, 2015 to fight against threats to food safety and to protect public health after repealing and the outdated Pure Food Ordinance, 1959.<sup>23</sup> The Act has been enacted by repealing and re-enacting the existing outdated laws 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 vision 2021 of the GoB.<sup>24</sup> The

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<sup>22</sup> Constitution of the Peoples' Republic of Bangladesh (1972). Article 15.

<sup>23</sup> Sobhani, M. M. (2018). 'Food Safety in Bangladesh: Making the Invisible Visible'. *Law Journal BD*, 8. Retrieved from <http://www.lawjournalbd.com/2018/06/food-safety-in-bangladesh-making-the-invisible-visible-2/>.

<sup>24</sup> Ahmed, T. N. (2018, September 9). 'Food Safety and Bangladesh'. *The Independent*. Retrieved from <http://www.theindependentbd.com/printversion/details/45595>.

Act includes 23 offences among which 13 are non-bailable and for the commission of these offences criminals will face maximum 5 years of imprisonment or Tk.1,000,000 fines. The maximum punishment for adding radioactive ingredients or heavy metals to food is 4 years in jail or the Tk.800,000 fine or both.

### ***The Consumer Rights Protection Act (2009)***

This Act is a consumer protection specific enactment which aims to establish the institutional mechanisms and to provide for punishments of certain offences. The Courts of First Class Magistrate or Metropolitan Magistrate are empowered to try the offences under this Act which clearly stipulates the punishments, the highest being 3 years imprisonment or a fine of Tk. 2, 00,000. It also provides for the establishment of a National Consumer Rights Protection Council. The Act was mainly enacted with the intention to protecting the legitimate interests of the consumers under which a consumer can claim compensation or damages if his or her right is violated.<sup>25</sup> Though section 71(1) of the Act does not allow a consumer to file a criminal case against the wrongdoer, s/he may file a complaint with the Director General of the Directorate of National Consumer Rights Protection (DG) or to the District Magistrate or any other person authorized by them to that effect under section 71(2) of the Act. The Act empowers the DG to carry out an investigation into the complaint and impose administrative fine on the person who would be found guilty for the contravention of the Act.<sup>26</sup> However, the Act is silent about the remedy of an aggrieved consumer in cases where the DG fails to investigate a complaint filed by him. Though the Act has the potential to ensure the right to safe food, due to want of public awareness it cannot be widely implemented in Bangladesh.

### ***The Formalin Control Act (2015)***

This Act contains provisions that include harsher penalties for production, import, transport, stock, sale and use without license, including life imprisonment and Tk.20,00,000 fines as the maximum punishment for importing, producing or hoarding formalin without a license. The Act has provision of 7 years imprisonment, but not less than 3 years or a fine of Tk.5,00,000 but not less than 2,00,000 for traders in case of violation of the terms and conditions of the license. For transporting formalin or possessing it without having license, the specified punishment is 2 years imprisonment and Tk.3,00,000 fine or both. The Act also specifies punishments for filing false cases to harass

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<sup>25</sup> Consumer Rights Protection Act (2009). Section 66 (1).

<sup>26</sup> Consumer Rights Protection Act (2009). Section 76.

the individuals.<sup>27</sup> Police can arrest any offender without permission of the Court if a case is filed under this Act. For immediate implementation of the Act, the authorities will also use the Mobile Court drives.<sup>28</sup> Though the Act provides for testing of formalin, there is no adequate equipment available for testing which is a barrier for the proper implementation of the Act.<sup>29</sup>

### ***The National Food Policy (2006)***

The National Food Policy (2006) is a comprehensive legislation that outlines the strategies and objectives covering mainly on three key dimensions, i.e. availability, access, and utilization of food for balanced nutrition. The key objectives of the Policy are: (1) adequate and stable supply of safe and nutritious food; (2) increased purchasing power and access to food of the people; and (3) adequate nutrition for all individuals, especially for women and children. However, the Policy is not accompanied by a framework law and thus does not provide any remedy for the individuals when their food rights are infringed, and finally it does not address the issues concerning right to food such as inadequate minimum wages, land rights, inheritance rules that discriminate against the women etc.

### ***The Mobile Court Act (2009)***

The GoB has enacted this Act in order to ensure the effective implementation of the prevention of food adulteration related offences in Bangladesh.<sup>30</sup> At present, monetary fines that are imposed on food manufacturers by the Executive Magistrates under the Mobile Courts in Bangladesh are entirely criminal in nature. Mobile Court is mainly headed by the Executive Magistrate and consists of an Executive Magistrate from upazila, district, or City Corporation; a Sanitary Inspector (SI); an Inspector from BSTI; and the police.<sup>31</sup> The Act

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<sup>27</sup> The Daily Star (2015, February 17). 'Formalin Control Bill passed'. Retrieved from <http://www.thedailystar.net/backpage/formalin-control-bill-passed-2486>.

<sup>28</sup> Rahman, M. A., Sultan, M. Z., Rahman, M. S., and Rashid, M. A. (2015). 'Food Adulteration: A Serious Public Health Concern in Bangladesh'. *Bangladesh Pharmaceutical Journal*, 18 (1), 1-7.

<sup>29</sup> Hossain, S. (2015). 'The Right to Food: Legal Protection in Bangladesh'. Bangladesh Legal Aid and Services Trust (BLAST) and Campaign for Right to Food & Social Security (RtF&SS), 37.

<sup>30</sup> Mobile Court Act (2009). Preamble.

<sup>31</sup> FAO (2010). 'Improving Food Safety, Quality and Food Control in Bangladesh: Food Inspection and Enforcement in Bangladesh: Current Arrangements and



provides that if a particular offence committed by any offender is so serious that the fine imposable under the Act would not be sufficient, the Magistrate may decide to initiate further legal proceedings against that person.<sup>32</sup> As per section 6(5) of the Act, an Executive Magistrate may direct the Officer-in-Charge of the respective police station to file a First Information Report (FIR) against a particular offender, if that offence is to be tried by any Court or tribunal higher than the Court of Sessions. Again, section 8 provides that the Mobile Court cannot enforce a penalty of imprisonment for more than 2 years. However, in Bangladesh Mobile Court is not administered properly due to the lack of a sufficient number of Magistrates.<sup>33</sup>

### ***The Bangladesh Standards and Testing Institution Ordinance (1985)***

In 1985, the GoB has established the Bangladesh Standard Testing Institute (BSTI) after enacting the Bangladesh Standard Testing Institute Ordinance (1985). This Ordinance contains provisions with regard to the establishment of an institution for standardization, testing, metrology, quality control, grading and marking of goods in Bangladesh which empowers the GoB to prevent the import or sale of different products that do not meet the standards of BSTI and to penalize those in violation of its provisions. The Ordinance mainly provides that a factory of the food manufacturer can be shut down if any food staff produced by that particular manufacturer does not follow the ‘Bangladesh Standard’, which is made by the BSTI.<sup>34</sup> When any food manufacturer includes adulterated or inferior ingredients while producing food, it will not comply with the Bangladesh Standard. Therefore, food adulteration is an offence which can be separately tried under this Ordinance.<sup>35</sup> This Ordinance was amended in 2003 as the Bangladesh Standards and

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Challenges (Food and Agriculture Organization of the UN) 1 (Food Inspection and Enforcement in Bangladesh), 11 - 12.

<sup>32</sup> Mobile Court Act (2009). Section 6 (2).

<sup>33</sup> Staff Correspondent (2011, August 11). ‘Food Adulteration Rings Alarm Bell: Star-Rdrs Roundtable Told Most Food Items Adulterated, Pose Lethal Risks to Public Health’. *The Daily Star*. Retrieved from <http://archive.thedailystar.net/newDesign/news-details.php?nid=198096>.

<sup>34</sup> Bangladesh Standard Testing Institute Ordinance (1985). Section 33C (1).

<sup>35</sup> FAO (2010). ‘Improving Food Safety, Quality and Food Control in Bangladesh: Report on a Workshop on Food Inspection Arrangements in Bangladesh’ (Food and Agriculture Organization of the UN) 12 (FAO, ‘Report on a Workshop on Food Inspection Arrangements in Bangladesh’) Food Safety Project Team.

Tasting Institution (Amendment) Act (2003) and the BSTI Rules has also been enacted in 1989 under the Ordinance.<sup>36</sup>

### ***The Pesticides Ordinance (1971)***

Pesticides mean and include substances that are meant to control pests, including weeds.<sup>37</sup> In Bangladesh farmers use pesticides so heavily and frequently that it get leached into water bodies and remains in the crops including processed crops. The Pesticides Ordinance (1971) requires pesticides to be registered and requires individuals intending to use them in any manner (including sale, import, manufacture etc.) to take a license. The Pesticides Rules (1985) and Pesticide Technical Advisory Committee were established under this Ordinance which has recently been updated by the Pesticides (Amendment) Act (2009).

### ***The Control of Essential Commodities Act (1956)***

This Act was enacted to strengthen the power of GoB to intervene in food market by the regulation or prohibition of the production, treatment, keeping, storage, movement, transport, supply, distribution, disposal, acquisition, use, trade or commerce of certain essential items. Section 3 of the Act provides that the GoB has the power to control production, supply, distribution, and so on, of essential commodities. Section 6(1) further states that if any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to 3 years or with fine or with both, and if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the GoB. Though in practice this law is rarely used for food safety purposes, still it is a valid law in Bangladesh.

### ***The Bangladesh Pure Food (Amendment) Act (2005)***

The Bangladesh Pure Food (Amendment) Act (2005) amends some sections of the Pure Food Ordinance (1959) and creates few new sections. For instance, the Act introduces provisions relating to definition of food, constitution of the National Food Safety Advisory Council (NFSAC), specifying the names of poisonous or dangerous chemicals, ingredients, additives or substances the use or sale of which has been prohibited and establishment of pure food court.<sup>38</sup> One of the key objectives of this Act

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<sup>36</sup> Islam, G. M. R., and Hoque, M. M. (2013). 'Food safety regulation in Bangladesh, chemical hazard and some perception to overcome the dilemma'. *International Food Research Journal*, 20 (1), 49.

<sup>37</sup> US Environmental (2007, July 24). What is a pesticide? Retrieved from epa.gov.

<sup>38</sup> Mondal, M. A. L. (2005, September 29). Pure Food ordinance: Will the amendments meet peoples' expectations? Retrieved from <http://archive.thedailystar.net/2005/09/29/d50929020329.htm>.

is to ensure that the public is protected from health hazards and fraud in the preparation, sale and use of foods and for matters connected therewith. That is to say, the Act mainly contains provision with regard to greater vigilance against food fraudulence.

### **Challenges of Enforcing Food Safety Laws in Bangladesh**

One of the key challenges to enforce the food safety regulations in Bangladesh is absence of specific enforcing body or authority who is entirely responsible to enforce the food safety regulations.<sup>39</sup> It is now noticeable that the personnel responsible for implementing food safety laws are highly corrupt individuals.<sup>40</sup> Moreover, in our country there is no designed inspection strategy and clear method of detecting the non-compliance with the existing laws though it is essential for a better enforcement regime to have proper implementation strategies so that all instances of non-compliance can easily be identified and action be taken rapidly by the appropriate authority.<sup>41</sup> Thus the reality suggests that the existing legal and institutional framework in Bangladesh has failed to have a minimum impact on the prohibition of food adulteration due to lack of awareness regarding food safety laws to some extent, and mostly lack of integrated legal framework to address the food adulteration and food safety matters in Bangladesh.

### **Key Findings and Suggested Recommendations**

In spite of having availability of food, accessibility to it remains a major problem and the present legal framework does not deal with this issue properly. It also fails to address poverty, gender, disability, geographical location and cultural practices that are also important factors in shaping food security.<sup>42</sup> The penal provisions under the pure food law are nominal and cannot stop the offenders from continuing their illegal activities.<sup>43</sup> Moreover, due to some procedural obstacles, lack of accountability, lack

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<sup>39</sup> Ali, A. N. M. A. (2013). 'Food safety and Public Health Issues in Bangladesh: A Regulatory'. *European Food and Feed Law Review*, 8 (1), 31- 40.

<sup>40</sup> Alam, M. M. (2017, March 1). 'What's on Your Plate?' *The Dhaka Tribune*. Retrieved from <https://www.dhakatribune.com/opinion/op-ed/2017/03/01/whats-on-your-plate>.

<sup>41</sup> Baldwin, R., and Black, J. (2008). 'Really Responsive Regulation'. *The Modern Law Review*, 71, p. 61.

<sup>42</sup> Faruque, A. A. (2014). "From Basic Need to Basic Right: Right to Food in Context", *A study prepared for National Human Rights Commission of Bangladesh*, p. 7.

<sup>43</sup> Hossain, A. (2012, September 28). 'What Your Children Eat'. A weekly Publication of the Daily Star, 14 (796).

of monitoring systems and lack of awareness among the consumers about their rights, the Consumer Rights Protection Act (2009) cannot effectively ensure the consumers' right to food safety in Bangladesh.<sup>44</sup> However, in order to improve the worsening situations regarding right to food and food adulteration in Bangladesh, the following recommendations can be suggested:

- a. In the context of present situations of Bangladesh, it requires a well-drafted and up-to-date legislation which could provide real resolutions. That is to say, a coherent and efficient national legislation should be developed covering all dimensions of right to food safety.
- b. The implementation agencies should also have sufficient corruption-free manpower, logistics supports, and should be run under an efficient management system.
- c. The food safety strategies and policies should be adopted in a way to include the development of a coordinated, risk-based food control program that covers the entire food supply chain from farm-to-table.
- d. Appropriate training programs containing manuals, materials and practical demonstration should be arranged for the farmers, food manufacturers, government regulatory bodies, parliamentarians, vendors and other individuals involved in the system for compliance.
- e. Specific Constitutional amendment is necessary to guarantee the legal right to access healthy food or right to be free from hunger.
- f. The existing laws should be amended including higher penalties for the wrongdoers and the enforcement services should be strengthened by including adequate trained personnel.
- g. The State should take measures to establish adequate number of food Courts and well equipped national laboratories operated by trained analysts utilizing standard methods.
- h. The preventive approaches to food safety management should be adopted that requires the development and delivery of enhanced education on how to improve the food safety and quality.

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<sup>44</sup> UPR Working Group of the Human Rights Council (2013). Stakeholders' Report on Right to Food in Bangladesh. Submission to the Universal Periodic Review of Bangladesh, Joint Submission of Campaign for Sustainable Rural Livelihood (CSRL) and Oxfam.

- i. The national food inspection and enforcement services should be strengthened to develop and implement risk-based inspection programs, enforced by properly trained, resourced and supervised food inspectors and in enhanced number.
- j. Food analysis capability and capacity must be enhanced through the establishment of well-equipped national laboratories, operated by trained analysts utilizing standard methods which are performed under laboratory quality management arrangements.
- k. Good governance should be established to ensure safe and hygienic food for the consumers and food safety must be developed as a culture.
- l. The Parliament 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.
- m. The victims should have access to an independent judiciary or other complaints mechanisms to complain about violations of the right to food.

### **Concluding Remarks**

Bangladesh has obtained independence from Pakistan about forty seven years ago. After the four decades of its independence the country has still been striving to formulate a proper and comprehensive food safety regulatory framework. Actually the regulatory framework for food safety in Bangladesh has never been useful from any aspect. As a futile effort to make the regulations useful, some new laws have been enacted and some old laws have been amended by the GoB. However, the existing food safety legal and regulatory regime of Bangladesh is governed by copious enactments and governmental bodies.<sup>45</sup> None of the government initiatives appear to have been successful because only the codification of law is not sufficient to combat the food adulteration and irregularities on consumer protection as well as food safety regimes in Bangladesh, rather proper and effective implementation and enforcement is also imperative.

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<sup>45</sup> Rahman, B. (2017, August 29). 'Food Safety in Bangladesh: Challenges and Concerns'. *The Daily Sun*. Retrieved from <https://www.daily-sun.com/post/251275/2017/08/29/Food-Safety-in-Bangladesh:-Challenges-and-Concerns>.

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