

Vol 5 Issue 6 March 2016

ISSN No : 2249-894X

---

*Monthly Multidisciplinary  
Research Journal*

*Review Of  
Research Journal*

Chief Editors

---

**Ashok Yakkaldevi**  
A R Burla College, India

**Flávio de São Pedro Filho**  
Federal University of Rondonia, Brazil

**Ecaterina Patrascu**  
Spiru Haret University, Bucharest

**Kamani Perera**  
Regional Centre For Strategic Studies,  
Sri Lanka

## Welcome to Review Of Research

**RNI MAHMUL/2011/38595**

**ISSN No.2249-894X**

Review Of Research Journal is a multidisciplinary research journal, published monthly in English, Hindi & Marathi Language. All research papers submitted to the journal will be double-blind peer reviewed referred by members of the editorial Board readers will include investigator in universities, research institutes government and industry with research interest in the general subjects.

### Regional Editor

Manichander Thammishetty  
Ph.d Research Scholar, Faculty of Education IASE, Osmania University, Hyderabad.

### Advisory Board

Kamani Perera Regional Centre For Strategic Studies, Sri Lanka	Delia Serbescu Spiru Haret University, Bucharest, Romania	Mabel Miao Center for China and Globalization, China
Ecaterina Patrascu Spiru Haret University, Bucharest	Xiaohua Yang University of San Francisco, San Francisco	Ruth Wolf University Walla, Israel
Fabricio Moraes de Almeida Federal University of Rondonia, Brazil	Karina Xavier Massachusetts Institute of Technology (MIT), USA	Jie Hao University of Sydney, Australia
Anna Maria Constantinovici AL. I. Cuza University, Romania	May Hongmei Gao Kennesaw State University, USA	Pei-Shan Kao Andrea University of Essex, United Kingdom
Romona Mihaila Spiru Haret University, Romania	Marc Fetscherin Rollins College, USA	Loredana Bosca Spiru Haret University, Romania
	Liu Chen Beijing Foreign Studies University, China	Ilie Pinte Spiru Haret University, Romania
Mahdi Moharrampour Islamic Azad University buinzahra Branch, Qazvin, Iran	Nimita Khanna Director, Isara Institute of Management, New Delhi	Govind P. Shinde Bharati Vidyapeeth School of Distance Education Center, Navi Mumbai
Titus Pop PhD, Partium Christian University, Oradea, Romania	Salve R. N. Department of Sociology, Shivaji University, Kolhapur	Sonal Singh Vikram University, Ujjain
J. K. VIJAYAKUMAR King Abdullah University of Science & Technology, Saudi Arabia.	P. Malyadri Government Degree College, Tandur, A.P.	Jayashree Patil-Dake MBA Department of Badruka College Commerce and Arts Post Graduate Centre (BCCAPGC), Kachiguda, Hyderabad
George - Calin SERITAN Postdoctoral Researcher Faculty of Philosophy and Socio-Political Sciences Al. I. Cuza University, Iasi	S. D. Sindkhedkar PSGVP Mandal's Arts, Science and Commerce College, Shahada [ M.S. ]	Maj. Dr. S. Bakhtiar Choudhary Director, Hyderabad AP India.
REZA KAFIPOUR Shiraz University of Medical Sciences Shiraz, Iran	Anurag Misra DBS College, Kanpur	AR. SARAVANAKUMARALAGAPPA UNIVERSITY, KARAIKUDI, TN
Rajendra Shendge Director, B.C.U.D. Solapur University, Solapur	C. D. Balaji Panimalar Engineering College, Chennai	V.MAHALAKSHMI Dean, Panimalar Engineering College
	Bhavana vivek patole PhD, Elphinstone college mumbai-32	S.KANNAN Ph.D , Annamalai University
	Awadhesh Kumar Shirotriya Secretary, Play India Play (Trust), Meerut (U.P.)	Kanwar Dinesh Singh Dept.English, Government Postgraduate College , solan

More.....

Address:-Ashok Yakkaldevi 258/34, Raviwar Peth, Solapur - 413 005 Maharashtra, India  
Cell : 9595 359 435, Ph No: 02172372010 Email: ayisrj@yahoo.in Website: www.ror.isrj.org

# Review of Research

International Online Multidisciplinary Journal

ISSN: 2249-894X

Impact Factor : 3.1402(UIF)

Volume - 5 | Issue - 6 | March - 2016



## MENACE OF UNSAFE FOOD AND ITS SAFETY LAWS IN INDIA



**Pranay R. Malviya**

I/C Principal, Assistant Professor, Dr. P. D. Law College, Amravati.

---

### ABSTRACT :

Health has its importance and is more than the wealth, Now-a-days, a good health is just like a boon because of the burning issue of food adulteration in our country, with the second highest population constantly and being the protector of the health of such a huge mass. Like poverty and corruption, food adulteration has also become a major problem of concern in India. Whenever we go to the market to purchase any food product, the first question that strikes our mind is that whether we are getting good quality product or not and this insecurity is naturally because of the watching of news channels and getting horrified to see the adulteration going on in our country just for a few bags.

**KEYWORDS :** Health importance, Unsafe Food, food adulteration, nutritional meal

## INTRODUCTION:

*"Health is the greatest of all possessions; a pale cobbler is better than a sick king."*

**Isaac Bickerstaff.**

Traditionally, Indian families used to cook food at home with healthy ingredients and knew what went into the meal. But in modern times, with rising incomes and affluence, more and more people are moving towards readymade fast foods and eating regularly at restaurants where food is cooked with poor quality ingredients to attract and satisfy the palate rather than provide a wholesome nutritional meal. It feels very shameful to know that in India, there is hardly a food product which has remained untouched of the adulteration. Take, for instance, spices, turmeric, dried ginger, sugar, edible oils like mustard oil, ghee, milk, etc. even the food grains and pulses are adulterated with substandard varieties and, at times, even small pieces of stone which is not at all rare. There is a wide spread adulteration of milk too, the starter of our day. Mixing of water in milk is not anything new. But apart from this, sometimes, certain kinds of powder of some dried ingredients is mixed in milk to make it thicker and look like standard milk containing the required quantity of fat as it exists in natural standard milk. Thus, the list of adulterated products remains unend.

### Types of food adulteration:

Food adulteration is the addition or removal of any substances to or from food, so that the natural composition and quality is affected. Adulterated food is impure, unsafe and not wholesome. Food can be adulterated intentionally and accidentally. **Unintentional adulteration** is a result of ignorance or negligence or the lack of facilities to maintain food quality. This may be caused by spillover effect from pesticides and fertilizers. Inappropriate food handling and packaging methods can also result in adulteration. **Intentional food adulteration** is usually done for financial gain. The most common form of intentional adulteration is colour adulteration. Some examples of intentional adulteration are addition of water to liquid milk, extraneous matter to ground spices, or the removal or substitution of milk solids from the natural product. Adulteration reduces the quality of the food which weakens the health of one who consumes it which can lead to health problems like cancer, cardiac problems, insomnia, paralysis, neurological problem or death as well.

### Legal framework for Prevention of Food Adulteration:

Whether the adulteration is intentional or accidental, that does not matter because ultimately the consumers, become the victims of it. And therefore, our legislative bodies has introduces number of laws for prevention and control of it which are as follows:

#### A) Constitution of India .

- **Article 19(1)(g)**- Guarantees a right to carry on any trade or business to the people of India. However, this right is not absolute and is subject to reasonable restrictions in the interest of general public as stated in clause (6) of article 19.

In **Krishna Lal -Vs- Govt. of Kerala, 1995 (1) KLT 172**, Justice Ramaswamy observed- "No one has a right to carry on any trade or occupation or business which is inherently vicious and pernicious. Equally none could claim entitlement to carry on any trade or business or any, activities which are criminal and immoral or in any articles of goods which are obnoxious and injurious to the safety and health of the general public."

- **Article 21**- The Right to life and human dignity also encompasses the right to have food articles and beverages which are free from harmful residues such as pesticides and insecticides.

While disposing of the Public Interest Litigation, a bench of Justices K S Radhankrishnan and A K Sikri asked the Food Safety and Standards Authority of India ( FSSAI) to "gear up their resources with their counterparts in all the states and union territories and conduct periodical inspection and monitoring of major fruits and vegetable markets."

"We may emphasize that any food article which is hazardous or injurious to public health is a potential danger to the fundamental right to life guaranteed under Article 21 of the Constitution of India. A paramount duty is cast on the States and its authorities to achieve an appropriate level of protection to human life and health..."

In case of **Bandhua Mukthi Morcha v Union of India, AIR 1984 SC 802**, the scope of this right was further extended to a right to live with human dignity free from exploitation. No doubt the act of deceitful merchants and adulterators is an exploitation on the quality of the goods sold.

- **Article 47**-The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. In **Vincent –Vs-Union of India, A 1987 SC 990 (995)**, the bounden duty of keeping the robust health of the general public was placed on the top of the State's obligation.

- **Concurrent List**- The matter relating to 'adulteration of foodstuffs and other articles' has been placed in the Concurrent List of Schedule VII of the Constitution. Thus, both the Union Legislature and the State Legislatures are empowered to make laws with respect to this subject.

#### **B) Indian Penal Code:**

This is the most relevant Act for the prevention of food adulteration.

- **Sections 272- 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 punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

- **Section 273-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 rupees, or with both."

But these provisions of IPC remain silent in cases of the mixing of the substances that are not noxious as water in milk and stones in grains and pulses. Also, under the criminal law, the only remedy available to the victim of market practices imprisonment of the offender. This law fails to provide any benefit to the victim. In such a situation, the Common Law remedy is available under the Law of Torts.

#### **C) Law of Torts:**

Under the law of Torts, the liability may be imposed on the manufacturer, supplier, importer, distributor or retailer or two or more of them together. The foundation of this approach is well reflected



by the case of **Donoghue v .Stevenson(1932) AC 562**, which laid down the principle that a manufacturer owes a duty of care to every possible consumer of his product and a consumer can bring an action against the manufacturer even if there is no contract between the two. Duty in tort is owed not to any specific individual but to the entire world at large. This decision made the Law of Torts very relevant to consumers who become the victims of food adulteration and also made the manufacturers liable to compensate the claimants harmed by their products. Under the Law of Torts the consumers are entitled to damages for loss caused by any defective, unfit or dangerous product, and the liability may arise whether the respondent is negligent or has defrauded the plaintiff or has committed a willful act. Thus, it is clear here that **absolute liability** is imposed on the wrongdoer in food adulteration cases, which means that he is absolutely liable without any excuse.

**Felonious Tort:** Food adulteration is both a felony i.e. crime as well as a tort. So, the victim can initiate either a civil action or criminal prosecution or both.

#### **D) Special Legislation:**

In addition to the general protection available under the above mentioned general laws of the land, there are specific legislations too in this area which in their own way have attempted to prevent food adulteration to some extent.

The Ministry of Health and Family Welfare is responsible for ensuring safe and wholesome food to the consumers. Keeping this in view, a central legislation called "**Prevention of Food Adulteration Act,1954**" (PFA) was enacted, repealing all laws, existing at that time in States, concerning food adulteration. This Act was amended thrice in 1964, 1976 and in 1986. But still it had certain prominent loopholes in it. Therefore, with the object of plugging the loopholes and making the punishments more stringent and empowering consumers and voluntary organizations to play a more effective role in its implementation, "**The Food Safety and Standards Act, 2006**"( **FSSA**) has been enacted . The salient features of this Act with a comparison with Prevention Of Food And Adulteration Act has been discussed and are as follows:

i.) The Act is a comprehensive and modern piece of legislation which intends to consolidate the laws relating to food and to ensure movement from multi departmental control to integrated line of command. The FSSA provides for the Food Safety and Standards Authority of India (FSSAI) as a single statutory body for food laws, standards setting and enforcement. While the statutory authorities for food laws under the Prevention of Food Adulteration Act(PFA) were the Central Committee for Food Standards, Central Food Laboratory, Food Inspectors, etc.

ii.) The FSSA lays down science based safety standards in respect of various kinds of articles of food while the PFA did not provide for the mandatory standardization of food products.

iii.) The FSSA provides graded penalties depending upon the gravity of offence which includes both civil penalties and imprisonment. But the PFA failed to mark distinction between the categories of adulteration and had same punishment for all kinds of adulteration to quote major punitive provisions are :-

In case of Deficiency in quality and quantity of food provision of heavy fine is mentioned; whereas in case of unsafe food if the food causes no injury fine upto 1lac and imprisonment of six month is there; In case of unsafe food which causes non-greivous hurt fine of 3 lac and imprisonment upto one year is mentioned but in case of greivous hurt fine of 5 lac and imprisonment upto six years is mentioned However if unsafe food results in death of fine of 10 lac imprisonment from seven years to life imprisonment is mentioned.

iv.) Food Recall: The FSSA allows for the removal of unsafe food from the market to minimize and prevent injury to consumers. It can be initiated voluntarily by the manufacturers and distributors or by the food authority. The PFA did not provide for recall of food.

v.) Improvement Notice: While the PFA was silent on this, the FSSA states that a designated officer may serve an improvement notice on a food business operator who fails to comply with the Act.

vi.) It is mandatory under FSSA to have License/Registration to carry out any business of food like manufacture, sale, storage or distribution, etc.

vii.) The representatives of the consumers' organizations are members of the Food Authorities and Central Advisory Committee. The consumer can even draw the sample of food himself and get it analyzed on payment of fees as per provision of sec 40 of FSS Act. In case of injury or death of the consumer due to consumption of 'unsafe' food, there is a provision for compensation to the consumer.

viii.) The FSS Act also ushers in new concepts such as Food Safety Management Systems, Food Safety Audit, etc.

Thus, the enactment of the FSS Act and the introduction of food audits, improvement notices and food recall procedures make India's food laws at par with those in the US, the UK, and the European Union.

#### **Conclusions and Recommendations:**

Public health is the prime concern of the state unsafe food directly affects the life India has recently taken Legislative steps it is not possible to bring a sudden change through legislation as it requires awareness, enforcement machinery. Public awareness and alertness will also work a lot in this regard still awareness of consumer, self regulation by trade and industry and regulatory work of enforcement officer will help a lot in this regard. In spite of this if the object of the legislation is not achieved being a question of nation's health people are to be saved from the clutches of the adulterators, strict steps should be taken against the recalcitrant. There should not only be heavy fines but also long rigorous imprisonments for the adulterators. In fact, Capital punishment can be recommended in some special and rare cases as these adulterators also play with the lives of innocent people. Special Court should be established to run food adulteration cases for speedy judgement since if we fail to solve this problem at once, this problem may go out of control in near future and also public awareness should be created so that people can become careful about buying foods and food articles. It is very necessary to see that this white collar crime of food adulteration should be treated like any other serious crime and the perpetrators should not be let off just for political or any other considerations since "The food we eat can either be the safest and most powerful form of medicine or the slowest form of poison".

#### **REFERENCES:**

1. Pandey, J.N., "The Constitutional Law of India", Central Law Agency, Allahabad, 49th Edition (2012).
2. Ratanlal and Dhirajlal, "The Law of Torts", 26th Edition (2013).
3. Seth and Capoor, "Commentary on The Prevention of Food Adulteration Act, 1954", Delhi Law House, 8th Edition.

#### **Legislations and Acts:**

1. The Constitution of India.
2. The Indian Penal Code, 1860.
3. The Prevention of Food Adulteration Act, 1954.
4. The Food Safety and Standards Act, 2006.

# Publish Research Article International Level Multidisciplinary Research Journal For All Subjects

Dear Sir/Mam,

We invite unpublished Research Paper, Summary of Research Project, Theses, Books and Books Review for publication, you will be pleased to know that our journals are

## Associated and Indexed, India

- ★ Directory Of Research Journal Indexing
- ★ International Scientific Journal Consortium Scientific
- ★ OPEN J-GATE

## Associated and Indexed, USA

- DOAJ
- EBSCO
- Crossref DOI
- Index Copernicus
- Publication Index
- Academic Journal Database
- Contemporary Research Index
- Academic Paper Database
- Digital Journals Database
- Current Index to Scholarly Journals
- Elite Scientific Journal Archive
- Directory Of Academic Resources
- Scholar Journal Index
- Recent Science Index
- Scientific Resources Database

Review Of Research Journal  
258/34 Raviwar Peth Solapur-413005, Maharashtra  
Contact-9595359435  
E-Mail-ayisrj@yahoo.in/ayisrj2011@gmail.com  
Website : [www.ror.isrj.org](http://www.ror.isrj.org)