

再探身體權與健康權之內涵

—以黑心油事件判決為中心

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關鍵詞：食品安全事件、人格權、慰撫金、身體權、健康權

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摘要

近年來，臺灣社會發生許多食品安全事件，使大眾人心惶惶。在 2013 年至 2014 年間，發生了黑心油事件，不肖廠商將飼料油或不可食用油混製成食用油品，再販售到市場上。受害者多藉由消保團體提起訴訟，主張其因食用問題油品而受有人格權侵害，請求賠償慰撫金。然而，受害者在食用問題食品後，並未產生明顯的生理症狀。在本事件相關的判決中，法院卻相當一致地肯認受害者的身體權、健康權，因食用問題油品而受到侵害。更有判決進一步認為，問題油品對受害者的自主意識造成干擾，而侵害了受害者的「消費者重大人格法益」與「食安人格法益」。本文將自黑心油事件相關判決見解出發，重新探討身體權、健康權之內涵，並檢討所謂「消費者重大人格法益」及「食安人格法益」之內涵，與此二概念是否有獨立作為人格法益的實益。

Study on the Content of Body Right and Health Right-Focusing on the Judgments Related to the “Gutter Oil Incident”

Cheng, Yu-Shuang

Abstract

The numerous food safety crises in Taiwan in the recent years induced generalized panic in the society. The “Gutter Oil Incident” in which conscienceless manufacturers mixed animal feed oil and waste oil to adulterate cooking oil and sold them on the market spanned through 2013-2014. Victims of gutter oil pursued their cases through consumer protection organizations, claiming that their personal rights were damaged by the ingestion of adulterated oils and demanded consolation payment. However, no obvious physiological symptoms were noted in victims after consuming the oils. In the rulings related to this incident, the courts agreed unanimously that the body rights and health rights of the victims were damaged because of ingesting the adulterated oils. Some rulings took a further step to affirm that the victims’ “important consumer personal rights” and “food safety personal rights”