Chapter - 3

Consumer Movement and Legal Protection
CONSUMER MOVEMENT AND LEGAL PROTECTION

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CHAPTER - III

CONSUMER MOVEMENT AND LEGAL PROTECTION

This chapter deals with the genesis and growth of consumer movement. It traces the origin and development of consumer protection in the United States of America, the United Kingdom, New Zealand, Sweden, Japan and Germany. It also contains a brief account of the consumer movement in India. The emergence of the consumer groups, legal protection and evolution of The Consumer Protection Act 1986 have been briefed in this chapter.

CONSUMERISM

The concept of ‘consumerism’ is defined as the “Social movement seeking to augment the rights and powers of the buyers in relation to the sellers”\(^1\).

Consumerism is a form of psychological projection engaged in by consumers who as a result of repeated failure to attain a desired life style have accumulated negative attitude towards marketers in the form of criticism that seem to be socially acceptable to those who hear the complaints\(^2\).

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Consumerism is an evolving set of activities of government, business independent organisations and concerned consumers that is designed to protect the rights of consumers. It is a dynamic movement with an enlarging scope and changing spokesmen issues³.

Thus consumerism is an organised movement for the assertion of the rights of the individual consumers. It is a movement that promotes the interest of the buyers of goods and services. It strives to protect the consumer from unsafe or low quality products, fraudulent advertising, labelling, packaging and business practices that limit competition. It promotes adequate information about the producer so that the consumer can take wise decisions in purchasing goods and services. Consumerism also tries to inform consumers the effective means of obtaining compensation for damages or inconvenience caused by the defective products and services.

CONSUMER MOVEMENT IN ABROAD

The United States has been a leader in consumerism in the world since consumers first began to recognize that they had rights in the market place. This awareness dates back to the Boston Tea Party, 1773, in which the American patriots boarded the British ships and tossed the incoming tea chest in protest against unfair taxes.⁴ The formation of National Consumer League in 1899 was an indication of the growing strength of the consumer movement.

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The ideological background of the growth of the consumer movement was provided by a series of writings beginning with R.H. Tawney’s "Acquisitive society" followed by T. Veblen’s "Theory of the Leisured Class". The joint work of Stuart Chase and F.J. Flinch’s "Your Money’s worth" crystallized widespread consumer discontent. "The Jungle", a novel written by Upton Sinclair in 1906, which described the filthy conditions in the meat-packing industry, led to the passing of the Federal Food and Drugs Act of 1906.

In 1929, "Consumer Research", a pioneer product testing was founded to provide testing and rating services for the consumers. During 1930's the first open resentment was witnessed against business malpractices in the USA. The trend continued in the 1940's, but it slowly declined in vigour in the 1950's.

However, the strongest wave of consumerism came in 1962 when President John F. Kennedy proclaimed four consumer rights - the right to choose, the right to safety, the right to information and the right to be heard. These rights were subsequently incorporated in the United Nations Charter of Human Rights. President Kennedy made his declaration on 15th March 1962 and thereafter 15th March is observed as "The World Consumer Rights Day" every year.

7. Ibid; p.100.
The movement picked up with the publication of Ralph Nadar’s ‘Unsafe at any speed’ a research work, which revolutionized safety standards in the car industry, not only in the United States of America but also all over the world. The efforts of Ralph Nadar led to the formation of many consumer groups like Buyers Group, Consumer Federation of America, Citizen’s Utility Board, Public Citizens, Citizens’ Action Group, Public Interest Litigation Group and the Health Research Group. All these bodies not only inspired the enacting of new consumer legislations, but also extended the use of the existing beneficial laws. The American Consumer Movement was intensified due to four elements: the existence of private lawyers to take up consumer issues on contingency basis, the government control on consumer issues, the involvement of the press and the services of voluntary consumer organisations.

Today, a large number of developed and developing countries have plenty of their own laws for consumer protection. The United States, The United Kingdom, Canada, Australia, Japan, France, Germany, New Zealand, Africa, Belgium, Denmark, Finland, Italy, Netherland, Norway, Portugal, Spain, Sweden, Switzerland, Luxemburg, Argentina, Brazil, Chile, Columbia, Israel, Philippines, South Africa, Taiwan, and Venezuela have a well developed system of legal protection. They adopt various legislative measures to regulate and control monopolistic, restrictive and unfair trade practices and to protect the interest of the consumers. The place of pride in this regard is accorded to the United States of America, which has the most far-reaching monopoly legislation in the world.

In Great Britain the consumer movement began to gather momentum after the Second World War through voluntary action mostly by women’s organisations. The Labour Party, one of the leading political parties, came into the picture in a significant manner for the first time in 1955 and put out a pamphlet entitled “Battle for the consumer”. A consumer revolution emerged and the government was compelled to initiate measures for the protection of consumers. The Molony Committee was appointed to report on the needed changes in the existing laws for further protection of the consuming public and to make recommendations for more and better standards of safety, quality and performance13.

On the basis of the report of the Molony Committee, the government appointed a Consumers’ Council in 1963. In the years that followed, several laws were passed for the benefit of the consumers14. Consumer protection in Britain is an established concern addressing itself to the matter of consumer protection in a different way. Consumer advice is a major focus. Much of this advice is preventive counselling rather than redressal of actual grievance.

After the second world war Germany introduced several laws to control concentration of economic power detrimental to the interest of the general public. The Anti-Monopoly legislation of 1957 sought to prevent the abuse of economic power to control mergers and takeovers and to create favourable conditions for enterprises to develop freely in a competitive economy.

Influenced by the experience of the United States of America, Australia launched a host of measures towards consumer protection. The first Anti-Trust Legislation was passed in 1906. The Trade Practices Act of 1974 provides measures to promote efficiency and competition in business. It prohibits contracts, arrangements and understandings in restraint of trade, monopolisation, exclusive dealing, resale price maintenance, price discrimination, and mergers. It also prohibits misleading or deceptive conduct, offering gifts and prizes with the intention of not providing them, bait advertising and supply of hazardous and risky goods, which do not comply with the safety standards.

In New Zealand, as early as 1559, a Consumers' Council was established under the Ministry of Industry and Commerce. The Council looks after the growth of local consumer associations. It undertakes comparative testing of goods and services through the Consumers' Institute established in 1966. The findings of the tests are communicated to the manufacturers concerned. The impact of these activities has been beneficial to the consumers to a great extent.

Sweden is one of the European countries, which boasts of tremendous progress in the field of consumer protection and consumer education. The effective functioning of the three important institutions (viz.) the National Institute of Consumer Information, the Ministry for Consumer Welfare and the State-financed Consumer Council testify the development of consumer movement in the country.

15. Leela Krishnan, P. op.cit; p. 19.
16. Agarwal, V.K. op. cit; p. 27.
In Japan, The Anti-Monopoly Law was enacted in 1947. The Act provides for the prohibition of private monopoly and the maintenance of Fair Trade. The act has laid down provisions to check acquisition of business assets or management of another company and mergers of directorships. In Japan, consumer protection is not confined to the national government. It is the responsibility of all the municipalities and local governments. Along with the legislative measures, a large number of voluntary consumer organisations have also sprung up devoting greater attention to the other aspects namely information, education, guidance and stronger organisation of consumers. It has to be emphasized that the movement in Japan took root through the various measures taken by the government to protect consumers\textsuperscript{17}.

Consumer Protection Laws enacted in various countries and the contribution of consumer organisations paved the way for the emergence of consumerism as an international movement. It resulted in the setting up of the International Organisation of Consumer Union (IOCU) with headquarters at the Hague and two regional offices, one at Pinang and the other at Montevides. The members of the union comprise of representatives from government departments, testing organisations and local bodies. The union has objectives such as promotion of cooperation among members through exchange of information, experiences and joint activities, expansion of consumer movement and nurturing of young consumer organisations and representation of consumer interest at international forums such as the United Nations.

The Economic and Social Council of the United Nations after a series of deliberations submitted the draft guidelines to the General Assembly and it was adopted on 9\textsuperscript{th} April 1985\textsuperscript{18}. The guidelines embodied the following objectives.

\textsuperscript{17} Leelakrishnan, P. op.cit; p.19.
They are: a) to assist countries in achieving or maintaining adequate protection for their population as consumers, b) to encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services, c) to facilitate production and distribution patterns responsive to the needs and desires of consumers, d) to assist countries in curbing unfair practices by all enterprises at the national and international levels which adversely affect consumers, e) to facilitate the development of independent consumer groups with a view to encourage the development of market conditions which provide consumers with greater choice at lower prices. These guidelines have become an eye-opener for most of the developing countries to embark upon the task of policy making towards better protection of consumer rights.

CONSUMER MOVEMENT IN INDIA

The history of consumer movement in India is as old as human civilization. For social welfare and to sustain the society’s need, formulation of small groups has been felt by intellectuals since ancient times. The history of consumer movement in India is as old as the human civilization.

It emerged as a reaction to the exploitation by businessmen. According to the Arthashstra of Kautilya, it was the duty of the government to supervise sale of products at reasonable rates. Merchants who cheated were open to heavy punishments. Earlier, Narada and Brhaspati laid down numerous laws and regulations to safeguard the interest of the buyers.

The development of consumerism in India has been noticed on two fronts namely
a) Emergence of consumer organisations
b) Evolution of legal protection in India.
a. Emergence of Consumer Organisations

The phenomenon of protecting consumers from the unscrupulous tendencies of business has assumed important role in the Indian society. Voluntary initiative by consumers through establishment of consumer organisations forms the central strand in the consumer welfare movement. The history of consumer organisations in the country starts from Mahila Upbhokta Sangathan, which was functioning in Lucknow since 1931. The emergence of consumer organisations, was seen during Second World War but most of them were anaemic and lacked vitality. No sooner did the war end than those organisations had an abortive end19.

The formal development of consumer organisation is traced back to 1949 when Delvai set up the consumer center in Chennai. At that time Madras Provincial Consumer Association was seen as working for the consumer interest20.

Due to the Chinese war consumers were very much exploited by traders in the form of unfair price increases, black marketing and hoarding. Citizens of Delhi and Mumbai set up price raise resistance movement and demanded an effective public distribution system. Based on this, in Mumbai, an Association of Women Against Rising Expenses [AWARE] was started in mid sixties by some enterprising women to keep the prices down. Another consumer organisation popularly known as Price Rise Resistance Movement (PRRM) was started in Delhi in 1962. They started open-air shops in different localities for the sale of the vegetables, eggs etc21.


The National Consumer Service was setup in 1963 as a wing of Bharat Sevak Samaj in Delhi mainly to promote consumer cooperative movement. A significant development took place in Delhi in 1964. Consumers in some localities stood up in protest against the rising prices of milk. To counter the menace of rising prices in vegetables the housewives decided to boycott the use of vegetables on certain days of the week. Nine housewives and a few social workers to protect the interests of consumers with the motto “Quality at fair price” formed the Consumers Guidance Society of India in 1966. It performs wide range of activities, through many working committees such as exhibition committee, fundraising committee, publicity committee etc. It is mainly concerned with consumer guidance, protection, education and representation. It publishes a monthly magazine named 'Keemat'.

The Consumer Council of India sponsored by planning commission was setup in October 1967, with its headquarters at New Delhi. It started publishing a bulletin, 'Indian consumer' for communicating useful information to safeguard the consumer interest.

In September 1971, The All India Consumer Organisation was formed at the national level. It spread its centralized services to various agencies created in state capitals, prominent cities and even in the rural areas. Their services include product-testing facilities, issuing publication, promoting exhibitions etc. In the same period the Southern Consumer Union, consumer protection committee of the Rotary clubs had also been formed. In 1972, Consumer Flying Squad was started in Madras.


The consumer movement gained momentum with the formation of Consumer Action Forum in Calcutta in 1973. The forum had a number of objectives including resistance to price rise, prevention of adulteration of food and medicine, checking malpractices like hoarding, black marketing and agitation for better public utility service. It has established complaint counters at important market places of Calcutta and visits ration shops, milk booth s etc.

In 1974 some elites of Tiruchi in Tamilnadu got together, formed a consumer group and started working on malpractices in ration shops and overcrowding in road passenger transport. During seventies a need was felt to form co-ordinating body of the consumer organisations. Hence in 1978 the Consumer Service Society [CSS] a federating unit of the Indian Federation of Consumer Organisation was setup.

The Consumer Education and Research Centre (CERC) Ahamedabad was established in 1978, as a Public Charitable Trust. It is a non-profit, non-government voluntary organisation and has been recognized as a research institute by the Government of India and as a consumer organisation by the Government of Gujarat. Its sister organisation, the Consumer Education and Research Society, is a membership organisation registered under The Societies Registration Act and under The Public Charitable Trust Act.

Consumer Education Research Centre in co-operation with its allied organisations, deals with local, regional and national issues related to consumer protection, investor protection and environment protection. It is India’s only consumer organisation equipped with an in-house and independent comparative product testing laboratory for evaluation, rating and ranking of consumer goods.

24. www.indiatrade.com/cerc
The Consumer Education Research Centre aims at achieving objectives such as ensuring consumer safety against unsafe products and services, establishing accountability of public services including monopolies, protecting consumers against unfair and restrictive trade practices, handling individual complaints and keeping a vigil on business, industry and public services.

The Consumer Education Research Centre undertakes public awareness campaigns, product surveys, workshops and research. It houses India's largest consumer library with 11,000 books and 140 periodicals besides newspaper clippings, workshop papers, video cassettes, slides, posters and photographs. Dissemination of information is carried out through referral services and publication of bibliographies with synopsis. It also undertakes comparative testing of consumer products at the in-house laboratory and publishes the findings in a bi-monthly magazine named 'Insight'. The magazine publishes test reports of comparative product testing, identifies the products tested by brand names and suggests the choice of the products to buy. Consumer Education Research Centre has an ongoing Internship Programme under which nominees from other consumer organisations are accepted for 4-6 weeks programme at Ahmedabad to gain firsthand information on consumer protection issues, various consumer protection activities and on running of a consumer organisation. The consumer complaints on products and services including finance and investment are handled by the CERC. It offers legal advice, conducts research and moves the court as a last resort. The legal cell examines complaints not settled through mediation and arbitration, drafts new Bills, prepares legal documents and case studies and produces manuscripts for publication of booklets for consumer education.

Considering the weak consumer movement in India some voluntary consumer organisations felt the need for joining together. Thus emerged the Indian Federation of Consumer Organisation [IFCO] in 1979. It collects data on price
rises, lapses in public services like the telecommunication, electricity and transport. It is also publishing a monthly bulletin to give the consumer movement a mass base so that an effective public opinion could be created to get the consumer grievance and hardships redressed.

Gujarat State Consumer Protection Centre [GSCPC], the state level consumer voluntary organisation is an independent, non political and non profit organisation working since 1980. It supports consumer activities and has branches in various places. During the year 1981-1982, the government extended financial assistance to a tune of Rs.0.62 lakhs to the voluntary organisations for undertaking various consumer protection and consumer education programmes. Assistance was also extended for research and investigation in the consumer problems and setting up of food laboratories.

In 1983 some teachers and students of the Delhi University formed VOICE [Voluntary organisation in the Interest of Consumer education]. Its aim was to take cases and remove legal lacunae in various laws. In August 1983, the government setup the 20-member consumer protection council. It has representatives from state government, other union departments and voluntary consumer organisations and members of Parliament. The council is to provide direction to and advise the government on matters of consumer interest like the measures to be taken up by the law enforcing department, ensuring consumers right to safety, information, fair prices and choice etc.


In 1983, the Consumer Unity and Trusts Society [CUTS] was formed. It is a registered, recognized, non-profit and non-governmental membership organisation pursuing social justice and economic equity within and across borders with value for people as the underlying theme. It involves itself in several gross root activities through its centres in the states of West Bengal, Rajasthan, Uttar Pradesh and Karnataka and simultaneously, in several national and international issues.

The post-independence political and social set-up in Tamil Nadu provided a firm ground for consumer awakening. Protests against the poor quality of consumer goods came to be manifested in many parts of the city of Chennai even before independence. However, for want of united and organised efforts on the part of consumers, such protests could not lead to a mass movement. Credit must be accorded to Professor Hanumantha Rao of the Presidency College, Chennai for leading the first organised group of consumers in the city. He established the 'Triplicane Urban Co-operative Society' (TUCS) in 1946. The members of the society were the elite residents in the city and the activities of the society were restricted with procuring the best quality goods for the members at competitive prices. Hence the society could not develop into a broad-based consumer organisation.

The consumer movement in Tamil Nadu took off with the establishment of The Madras Provincial Consumer Association in 1949. The immediate cause for the starting of the association was the steep rise in the prices of certain essential commodities like rice, kerosene, chilly and the like. In the absence of a strong organisational base, the response to the movement remained lukewarm. Consequently, there was no spurt in the activities of the association in the three decades that followed. Lack of awareness, unfavourable political conditions, indifference on the part of the officials and big business houses could be attributed to as the causes for the slow pace of the movement.

A strong wave of consumer movement swept the city of Chennai and perhaps the whole of the state with the coming into existence of the Citizen Consumer and Civic Action Group, popularly known as CAG, on 7th October 1985. It is a non-profit, non-political, voluntary and professional citizen’s group. The group is based on a simple concept – that the quality of our lives is deteriorating and that mere complaining will not solve the problems. The CAG’s declared objectives are therefore to provide a platform for citizens to represent consumer and environmental problems, to monitor the performance of public utilities and to take up issues of public health, development and safety.

The group was originally named as the Consumer Action Group. After a decade of service, considering the larger role assigned to it, the name was changed to Citizen Consumer and Civic Action Group. Specific issues affecting the common citizens such as pollution, lack of urban planning, poor quality of health care and poor civic amenities become priorities in the work undertaken by the citizen consumer and Civic Action Group.

The Citizen consumer and Civic Action Group undertakes consumer education programmes, organises workshops, seminars and conducts research on various issues affecting consumers. An investigative report on the blood banks in government and private clinics in Chennai was submitted to the government in 1992. A campaign to educate the public on the hazards of noise pollution caused by loud speakers and air horns was held at Chennai in 1993. A workshop titled Doctors, Patients and the Law to highlight the need for self-regulation and accountability in the medical profession was held at Chennai in 1994.

29. Source: Citizen Consumer and Civic Action Group, 8, Fourth Street, Venkateswara Nagar, Adayar, Chennai- 600 020.
A study on the Rehabilitation and Resettlement of oustees of the Krishna Water Project was undertaken in 1995. A Consumer Guidance Seminar on “Self Financing Colleges-Problems and Solutions” was conducted in 1999.

The Citizen Consumer and Civic Action Group has also brought legal actions against various departments on the government and succeeded in obtaining favourable orders and installing certain projects, which are against the interest of the general public. A writ petition was filed before the Madras high court to stop implementation of the east coast road project, which envisages the building of a 700 km national highway from Chennai to Kanyakumari. In October 1993, a stay was obtained on the construction of the highway till receipt of environmental clearance from the Ministry of Environment and Forests. A writ petition seeking better maintenance of crematoria and burial grounds was filed in the Madras High Court.

The South Madras News Consumer Protection Council (SMNCPC), started in 1986, also contributed a lot to the consumer movement in Tamil Nadu. However, the enactment of The Consumer Protection Act in the year 1986 influenced the growth of the movement to a great extent. The number of consumer organisations, which remained negligible all over the state increased rapidly after 1986. Between 1986 and 1990, the number of consumer organisations in Tamil Nadu rose to 210. A definite fillip was given to the movement with the constitution of the State Commission and the Consumer Disputes Redressal Forums in all the districts in the year 1990. The redressal agencies led to the mushroom growth of voluntary organisations. A discouraging feature is the emergence of mere rubber-stamp and letter-head organisations which do not have functional existence.

A Federation of Consumer Organisations of Tamil Nadu (FEDCOT) was set up in Chennai under the presidentship of R. Desikan in 1990. It is a state level organisation, which coordinates the activities of the leading consumer organisations in the state. The primary objective of the federation is to promote the economic and other interests of the public by checking the prices, quality, quantity and reliability of commodities. It also seeks to generate public opinion in favour of consumer interests and legislations by enlisting the cooperation and goodwill of the private sector industry.

These objectives are being achieved through various activities such as seminars, training programmes, conference, and processions. FEDCOT’s strength lies in its statewide popularity. It organised three state-level conferences in 1992, 1994 and 1997 respectively. The fourth and the latest was held at Salem on 25th February 2001, in which more than 2000 consumer activists both men and women participated.

The organisational structure of the Federation is unique in many ways. In order to facilitate greater exchange of experience among members, the organisation has been divided into six zones viz. Chennai, Trichy, Salem, Coimbatore, Madurai and Kanyakumari. Another important feature of the Federation is the provision for the election of separate directors to look after each of the ten different subjects -Environment, Health, Public Utility, Women Welfare, Quality control, Agriculture, Food and Public Distribution, Local Self Governance, Law and Admission of members.31

The state government plays a positive role in consumer protection. Steps are taken in time to frame necessary rules and to implement the provisions of

31. Source: FEDCOT, S-1, Beacone view 26, Karanesswarar Pagoda street, Mylapore, Chennai-4
the Consumer Protection Act 1986. Consumer Protection Councils at the state level as well as district level have been established. The Minister for Food and Cooperation is the Chairman of the State Council whereas the District Collector is the Chairman of the District Council. The members of the councils are representatives from trade and commerce, consumer organisations, women, social workers and members of parliament and members of state legislature.

Apart from the Consumer Protection councils, a bureaucratic structure (viz.) The Consumer Protection Department has been set up to carry out the administrative functions relating to consumer affairs. This department conducts workshops, seminars and exhibitions to educate consumers. Budget provisions are made for financial assistance to various activities undertaken by the department. The steps taken by the government accompanied by feedback from consumer activists and voluntary organisations will go a long way in ensuring adequate protection for the consumers in the state.

EVOLUTION OF LEGAL PROTECTION INDIA

Consumerism or consumer movement in its present form and content may be of recent origin in India, but the spirit of consumerism by way of angry outbursts and retributive punishments inflicted on those who resorted to short weights and adulteration could be traced to the very dawn of civilization. In fact, India was the first among all the countries to enact legislation to protect consumers. Ancient economists like Kaudilya and Brihaspath laid down rules to safeguard the interest of buyers and sellers\textsuperscript{32}.

The ancient Muslim rulers in India also took care to protect the interest of the consumers. They introduced and strictly enforced various measures to control the prices of certain commodities like cloths, sugar, dried fruits, herbs, butter and oil.

As the welfare of the people was not very much on the political agenda of the British, the consumer movement did not achieve any significant progress during the colonial era. There was however some pieces of legislation, which protected the overall public interest though not necessarily the consumer interest. The Indian Contract Act 1872 was amended and the Sale of Goods Act 1930 was passed. Due to the efforts of Mahatma Gandhi and his stress on the need for consumer protection in India, a few legislations such as the Agricultural Produce (Grading and Marking) Act 1937 and the Drugs Act 1940 were enacted.

A new impetus was given to the consumer movement in India after independence. Besides amending the existing laws on consumer protection, the Indian Parliament and various state legislatures introduced laws to provide better protection for the consumers such as laws relating to standardisation, grading, packaging and branding, prevention of unfair trade practices, food adulteration and short weights and measures. There are also laws against misleading and deceptive advertisements, sale of spurious drugs, undue profiteering and the like. Government machinery, Judiciary and consumer organisations have also made significant contributions to the consumer movement in India.


The political gospel of the 19th century was ‘laissez faire’, which envisaged minimum government control, maximum free enterprise and contractual freedom35. The management of social and economic life was not regarded as government responsibility. The consumer was at the mercy of the manufacturers and traders. Widespread discontent among the masses called for a change in the role of the state. This resulted in the emergence of the concept of ‘social welfare state’, which necessitated active state intervention in the economic and social lives of the people through welfare legislations. State control of manufacture and distribution of consumer goods was recognised and legislative attempts were made to protect consumers.

The regulatory legislations introduced by the British, such as The Indian Contract Act 1872 and The Sale of Goods Act 1930 were intended to protect the interest of the traders as well as consumers against breach of duty, fraudulent transactions, breach of warranties and the like. However, under these laws, the consumers did not enjoy adequate protection. In certain cases, a buyer of goods could not claim damages under The Indian Contract Act or under The Sale of Goods Act. For instance, the goods may be reasonably fit for the purpose, but they may cause damages or personal injuries due to faulty packing or inherently dangerous contents against which the manufacturers fail to warn. In this case buyer have no remedy. This is mitigated by The Law of Torts.

Under The Law of Torts, consumers are entitled to claim damages in case they suffer loss as a result of using any defective, unfit or dangerous product. The remedy under The Law of Torts is available to immediate as well as ultimate

consumers. This liability may arise from negligence, wilful act or fraud, which might inflict injury on the plaintiff himself as distinguished from an injury to the public at large. Apart from unliquidated damages, there are other remedies available to the person affected such as injunction and specific relief.

The Indian Penal Code 1860 contains certain provisions relating to consumer protection. It provides punishment for offences relating to weights and measures, public health and counterfeiting property mark. The specific offences in relation to consumers made punishable under The Indian Penal Code are: fraudulent use of false instrument for weighing (Sec.264), fraudulent use of false weight or measure (Sec.265), possession of false weight or measure (Sec.266), making or selling false weight or measure (Sec.267), adulterated food or drink intended for sale(Sec.272), sale of noxious food or drink (Sec.273), adulteration of drugs (Sec.274), sale of adulterated drugs(Sec.275) and fouling water of public spring or reservoir (Sec.277). These provisions may have some deterrent effect on the prospective offenders, but they do not provide for any relief to the consumers in terms of compensation.

The Code of Civil Procedure 1908 contains provisions for consumer protection. Section 94 of the code provides that in order to prevent the ends of justice from being defeated, the court may order the arrest of the defendant or the attachment and sale of his property before judgment.

The Agricultural Produce (Grading and Marking) Act 1937 was enacted to provide for the grading and marking of agricultural and other produce. It introduced an internal quality control system through the scheme known as ‘AGMARK’. This act was passed in 1937 to provide for grading and marking of all products of agriculture, horticulture and all articles of food and drinks. The central government is empowered to prescribe compulsory grade designation in respect of certain articles. The act is implemented by The Directorate of
Marketing and Inspection. License has been made mandatory for using the AGMARK credentials.

Alteration of the composition of the article, tampering with the article, unauthorised marking, counterfeiting grade mark and selling misgraded articles are offences under this act. Complaints can be made by the central government, the state government or any officer authorised by them in writing, the aggrieved person or a recognised consumer association.

The Drugs and Cosmetic Act, which was enacted in 1940, provides for regulation of import, manufacture, sale and standards of drugs and cosmetics and thereby protects the interests of consumers in the area of drugs and cosmetic industries in India. The main objectives of the act is to ensure that the drugs and cosmetics are of the required standards of quality, purity and strength and are packed in containers giving all necessary information about them and their manufacturer.

Since independence, there have been earnest efforts to improve the conditions of the consumers. The Constitution of India contains various provisions for the welfare of consumers. Part IV of the Constitution contains important directions to the policy makers to bring about suitable legislations for the health, safety and welfare of the consumers. Under item 18 of the concurrent list in the seventh schedule of the Constitution, the Central Government as well as State Governments are empowered to make laws on adulteration of foodstuffs and other goods. Item 33 of the same list in the same schedule empowers both the centre and the states to pass legislation on trade and commerce, the production, supply and distribution of foodstuffs including edible oil.
Based on this constitutional mandate, a number of consumer-oriented welfare legislations have been enacted. Chief among them are explained in the following paragraphs:

**The Prevention Of Food Adulteration Act 1954**

The Indian Penal Code sections 272 and 273 provide penalty for food adulteration but ineffective to prevent adulteration. The criminal liability under Indian Penal Code is limited to only to the extent of sale of adulterated articles of food or drinks, which renders it noxious for consumption. Therefore, mere adulteration of food and drink articles with harmless ingredients does not attract liability. For examples, mixing of water with milk or of sugar in honey is no doubt adulteration but these do not make the article obnoxious. Moreover criminal liability under Indian Penal Code is attracted only if guilty of mind is proved. Many a time it is very difficult to prove criminal intention behind the adulteration of foodstuffs. Therefore The Prevention of Food Adulteration Act 1954 was passed to eradicate the anti-social evil of food adulteration and ensuring purity in the articles of food. The Act of 1954 was thoroughly amended in 1976 in order to make the provisions more effective and workable. Deterrent punishment to the extent of life imprisonment with a minimum of three years of imprisonment has been provided for habitual food adulteration, if the product when consumed by any person is likely to cause death or grievous hurt. The implementation of the provisions of the act is vested in the hands of food inspectors appointed by the state government. They are empowered to take samples of food items for analysis by the public analyst. In the interest of public health, food inspectors can prohibit the sale of any article of food. However, this power has to be exercised with the previous approval of the local health authority.
The Drugs And Magic Remedies (Objectionable Advertisements) Act 1954

Advertisement has become the launching pad for any business. Catchy, false and misleading advertisements have become the means of undue, unfair and illegal profiteering. When these methods are adopted in respect of life-saving drugs and commonly used cosmetics, the consequences are disastrous. Appealing advertisements relating to sexual diseases, sexual disorders, miscarriage or prevention of conception in women, sexual pleasure and chronic diseases are very common. The ignorant and gullible patients resort to self-medication with useless, harmful and often dangerous drugs.

The Drugs and Magic Remedies (Objectionable Advertisements) Act 1954 was enacted with a view to banning false and misleading advertisements relating to drugs and medicines. The act prohibits advertisements relating to drug, which directly or indirectly give a false impression regarding the true character of the drug, or makes a false claim for the drug or is otherwise false or misleading in any particular manner. It also prohibits the advertisement of magic remedies for treatment of certain diseases and disorders.

The Essential Commodities Act 1955

The Essential Commodities Act is a significant law that enables the government to deal effectively with trading activities that are adverse to the consumers. The very purpose of this act is to check the inflationary trends in prices and to ensure equitable distribution of consumer commodities for that purpose. The primary concern of the government is to see that the concerned commodity is in regular supply and available for the consumers at fair prices. Under the provisions of the act the government has to regulate by licenses and permit the production, manufacture, storage, transport, distribution, disposal and consumption of essential commodities.
The Monopolies And Restrictive Trade Practices Act 1969

The act has been enacted with the objectives of curbing monopolies and restrictive trade practices. The Amendment Act 1984 contains provision for protecting the consumers from the unfair trade practices, such as deceptive and misleading advertisements, hoarding of goods and supply of unsafe and hazardous products. The act was directed against the restrictive and monopolies trade practices and the common interest was sought to be protected by promoting competition and curbing anti-competitive activities of manufacturers and dealers.

The Standards Of Weights And Measures Act 1976

Short-weight is one of the oldest and most common methods adopted by traders to deceive consumers. Complaints of the use of non-standard weights and measures and tampering with weights in the market places are very common. The Indian parliament enacted The Standards of Weights and Measures Act in the year 1976 with the ultimate objective of safeguarding the interest of consumers by enforcing established standards of weights and measures. The act has provisions regulating weights and measures with regard to goods sold or distributed interstate by weight, measure or number and provision for matters connected with the above or incidental thereto.

The act prohibits the use of non-standard weight or measure or numeral. Inscription or indication of weight, measure or number that is not in accordance with the standard unit of such weight, measure or numeration is prohibited.

The act provides for elaborate machinery for the proper implementation of the provisions. The controller of legal metrology, appointed by the central government with the consent of the state government, is authorized to verify any weight or measure by comparing, checking or testing. He is also authorized to
In recent years, the marketing of goods, especially consumable items have undergone tremendous innovations and changes. This is a sequel to the rapid modernization, which continues to take place in trade, industry and commerce. Now commodities including foodstuffs are being made available in a ready-to-use condition in packages. The trend of making a large number of items available in a pre-packed condition is picking up very fast. Here comes the question of protecting the interests of the consumers. As the commodity is pre-packed, a consumer does not know at the time of purchase the quantity, quality, type, number or size of the contents. With a view to protecting the consumers, the act provides for certain rules concerning the packaging of commodities.

Section 39 of the act prohibits the manufacture, packing, sale, distribution, or delivery of any commodity in package form unless such package bears plain and conspicuous declaration in the prescribed manner regarding its identity, net quantity in terms of standard weights and measure the sale price, the name of the manufacturer and the distributor.

It is mandatory that the declaration made on the package be legible, prominent, definite, plain, unambiguous, conspicuous as to size, number and colour, as far as practicable in such style or type of lettering as to be boldly, clearly and conspicuously presented in distinct contrast to the other type.

It is significant to note that The Standard of Weights and Measures (Amendment) Act 1986 has given locus stand to voluntary organisations (whether or not the consumer is a member of the organisation) to make a complaint under the act.
The Prevention Of Black Marketing And Maintenance Of Supplies Of Essential Commodities Act 1980

The Essential Commodities Act 1955 contains comprehensive provision to regulate production, supply, distribution, prices trade and commerce in commodities considered essential under the act. However it does not deal effectively with certain malpractices indulged in by unscrupulous elements like black marketeers, hoarders, and profiteers. Hence it was felt necessary to supplement the act by another legislation i.e., The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act 1980.Under this act, the central government, and state government’s specified officials have been empowered to order detention of a person who is found to be acting in any manner prejudicial to the maintenance of supplies of commodities essential to the community.

The Bureau Of Indian Standards Act 1986

The Industrial Policies adopted by successive governments in India threw up so many avenues for the proliferation of consumer goods in the market. The consumers were so confused that they could not distinguish quality goods from sub-standard ones. This state of affairs necessitated the enactment of The Bureau of Indian Standards Act in 1986. The act provides for the constitution of a Bureau with two-fold objectives i.e. Standard Formulation and Certification Marking.

The Bureau formulates standards for products in all sectors of economy. The product standards prescribe the maximum level of quality, safety and performance of products. The act provides for a voluntary scheme known as ‘BIS Certification Marks Scheme’. The manufacturers are permitted to use the standard ISI mark on their products after obtaining certification as to their conformity with the relevant Indian Standards. With a view to providing more protection to the consumers, the Government of India has made BIS certification mandatory for
items of mass consumption and those affecting the health and safety of consumers. Recently a consumer affairs department has been set up in the Bureau of Indian Standards to create quality consciousness among common consumers.

**Laws Relating To Consumer Services**

Consumers are vested with the right to quality and efficiency in the services they avail in exchange for their hard-earned money. There are a good number of laws that deal with consumer services. Chief among them are: The Banking Regulation Act 1949, The Insurance Act 1938, The Electricity Act 1910, The Electricity (Supply) Act 1948, The Railways Act 1890, The Indian Post Office Act and The Indian Telegraph Act 1955. However, these acts are rather regulatory in nature and they do not provide much for consumer protection. Still there are a few provisions dealing with matters relating to public interest and general consumer welfare, which cannot be ignored. Section 35A of The Banking Regulation Act 1949 empowers the Reserve Bank of India to issue directions to the banking companies in the interest of the general public and depositors.

Chapter VII of The Indian Railways Act lists the duties and responsibilities of the railway administration to the passengers and their belongings, during the course of the journey. Section 73 of the act says: ‘A railway administration shall be responsible for the loss or destruction, damage, deterioration or non-delivery in transit of animals or goods’. Section 80 provides for instituting suit for compensation against the railway administration in case of loss of life or personal injury to a passenger or for loss, destruction, damage, deterioration or non-delivery of animals or goods. Section 82A deals with the liability of the railway administration to pay compensation to accident victims.

Section 7B of The Indian Telegraph Act 1955 provides for arbitration of disputes between the consumers and the department.
Section 6 of The Indian Post Office Act bars any claim for compensation for loss or mis-delivery of postal articles unless there is a specific allegation of fraudulent or wilful act on the part of any particular postal employee.

Section 26(6) of The Electricity Act 1910 gives protection to the consumers against defective meters. Where the meter is defective or running slow for a long period, say a period of five years, the revised charge can be received only for a period not exceeding six months.

Inspite of the wide range of legal measures available in India, the consumers are not happy because the procedures for bringing the culprit to book under the existing laws are long drawn and cumbersome. Litigation is a costly affair, which most consumers cannot afford. There is no common platform for officials and non-officials to discuss the consumers’ problems and for advising the government on policies and measures needed to promote and protect the rights and interests of the consumers.

During the last few years preceding the enactment of The Consumer Protection Act there was in India a marked awareness among the consumers of goods and services that they were not getting their money’s worth and were being exploited by both traders and manufacturers of consumer goods. The need for Consumer Redressal Forums was, therefore, increasingly felt. Moreover voluntary consumer organisations and other pressure groups were unanimous and unequivocal in their demand for a separate full-fledged piece of legislation concerning consumer protection. During the year 1985 the Economic and Social Council of United Nations formulated certain guidelines to have uniform consumer protection policy since the world economy has become so interdependent. This is mostly due to the international character of business practices, in that the marketing of goods and services if often done on a multinational basis and also to the fact that problems encountered by consumers
are often non-exclusive to any one country. Hence United Nation has requested the member countries to adopt their guidelines to have fair and sound consumer protection standards. It was mainly around that period that the most developing countries, including India, witnessed the ever-growing concern for consumer protection largely due to the painstaking efforts of the International Organisation of Consumer Union. The Government of India realising the need to provide better protection and to make market place safer and more responsive to consumer needs enacted The Consumer Protection Act 1986.

The enactment of The Consumer Protection Act 1986 is a great landmark in the history of consumer protection in India. It is a highly comprehensive and consolidating social welfare legislation, intended to provide teeth and claws to the entire law of consumer protection. It is acclaimed as the Magna Carta of Indian consumers. The act has got the consumer movement really going and more powerful, broad-based, effective and people-oriented. In fact, the act and its amendment in 1993 have brought fresh hopes to the Indian consumers.

For the sake of brevity a detailed discussion on the provisions of the act is avoided and a precise presentation of the salient features of the act is attempted by the researcher in this report.

The Consumer Protection Act 1986

The act was passed by the Lok Sabha on the 9th December 1986 and the Rajya Sabha on the 10th December 1986 and assented to by the President of India on 24th December 1986 and was published in the Gazette of India Ext. Part II Section I dated 26.12.86 at PP 1-12 called “The Consumers Protection Act 1986”. The Preamble states that “An act to provide for better protection of the interest of consumer and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers’ dispute
and for matters connected therewith”. The act contains thirty-one sections in four chapters. The first chapter deals with ‘preliminary’ aspects including the definition of concepts; the second chapter is about the Consumer Protection councils; the third chapter is a lengthy one containing twenty two sections dealing with Consumer Dispute Redressal Agencies and the fourth chapter is under the heading ‘miscellaneous’.

The very definition of the terms such as ‘Consumer’, ‘Service’, ‘Deficiency’ and the like shows that the act is much wider in scope and broader in application. The term ‘Consumer’ means any person who buys any goods for consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised or under a system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose or hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised or partly paid and partly promised or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person.

Thus The Consumer Protection Act applies to all goods and services, bought or hired for consideration. From the consumers’ point of view, the term includes the buyer, user, hirer or beneficiary of any goods or services. The government, which is the leading producer and provider of goods and services like water, electricity, telephone, gas, transport, postal service, etc. has also been brought within the purview of the act.
The incorporation of Chapter II, which envisages the establishment of Consumer Protection councils at the Central and State levels, is indeed a novel feature intended to give a new impetus to Consumer Protection in India. Many a social welfare legislation in India remains dormant for various socio-economic reasons such as illiteracy, ignorance and conservatism. The provision for councils reflects the intention of the legislature to implement the law in letter and spirit.

The act also sets out certain objects to be achieved by the Central Councils. They are, to promote and protect the important rights of the consumers such as the right to safety – i.e., the right to be protected against the marketing of goods and services which are hazardous to life and property, the right to information i.e., the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services as the case may be so as to protect the consumer against unfair trade practices, the right to choose i.e., the right to be assured whenever possible of access to a variety of goods and services at competitive prices, the right to be heard i.e., right to be heard and to be assured that consumers' issues will receive due consideration at appropriate forum, right to seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers and right to consumer education. The act also casts a duty on the State Consumer Protection Councils to promote and protect the above-mentioned rights of the consumers.

The creation of a hierarchy of bodies for the speedy solution of the consumer disputes is yet another characteristic feature of the act. The Consumer Dispute Redressal Agencies (CDRA) comprise of a three-tier quasi-judicial bodies namely - Consumer Disputes Redressal Forum at the district level known as the “District Forum”, Consumer Disputes Redressal Commission at the state level called as the “State Commission” and the National Consumer Disputes Redressal Commission at the national level called as the “National Commission”.

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The District Forum has been given pecuniary jurisdiction to entertain complaints where the value of goods or services and the compensation claimed does not exceed rupees five lakhs. The pecuniary jurisdiction of the State Commission extends to entertaining complaints when the value of goods or services and the compensation claimed exceeds rupees five lakhs but does not exceed rupees twenty lakhs.

The National Commission has pecuniary jurisdiction to entertain complaints when the value of goods or services and compensation claimed, if any exceeds rupees twenty lakhs.

Appeals against the orders of the District Forum lie with the State Commission. Against the orders of the State Commission an appeal will lie with the National Commission. A further appeal lies to the Supreme Court against the orders of the National Commission.

Time – bound decision is one of the essential features of the act. The complaints are to be disposed off within 90 days in cases where the dispute does not involve any analysis or testing. On the other hand if it involves any analysis or testing the complaints have to be disposed of within 150 days. The intention of the legislature appears to be to provide for speedy and efficacious remedies for consumer disputes.

The traditional rule of locus standi that an aggrieved person alone can move the court for redressal has been relaxed in this act. Accordingly, the following categories of persons can file a complaint - a consumer, a voluntary consumer organisation registered under The Companies Act 1956 or any other law for the time being in force, one or more consumers where there are numerous consumers with the same interest, the central government, or any state government.
The usual procedural formalities that discourage a litigant are not applicable to a complaint under The Consumer Protection Act 1986. The complaint may be either submitted by the party in person or through his authorised agent or sent by post to the appropriate forum. There is no fee for filing a complaint.

The salient features highlighted above shows that The Consumer Protection Act 1986 is an important milestone in the long and arduous journey of the Indian consumers. In the International Conference on Consumer Protection held in Malaysia in 1997, The Indian Consumer Protection Act was described as one “Which has set in motion a revolution in the fields of consumer rights, the parallel of which has not been seen any where else in the world”36. However, the realisation of the benefits of the act depends on the extent of the awareness among the consumers.