CHAPTER 1 : INTRODUCTION

1.1 INTRODUCTION TO CONSUMER PROTECTION ACT (CPA):

   Every human being is a ‘Consumer’. The consumer impacts and in turn is impacted by every economic decision whether taken by an individual or a group of people. The consumer is representative in every section of society with no distinction of class, caste, sex, profession, business, service… et al.

   The term consumer is an inclusive definition “Since for a living we provide our, services, our entrepreneur skills, to generate products, services that have economic value i.e. demand.

   This results in generation of revenue resources for ourselves, improves our economic ability to place demand for goods & services that have ability/potential to improve our life style. This ultimately results to ‘Consumerism’.

   Increase in consumer goods accompanied by rising incomes has further accelerated consumerism and resulted in the need for consumer organizations to analyse the products and services and challenge rouge businessmen. The term ‘consumerism’ and ‘consumer movement’ are normally confused as equivalents.

   Traditionally ‘consumerism’ is still embalmed by contemporary consumer organizations that advances consumer protection, that includes legislators, passing consumer protection laws, regulators policing these laws, educators spreading awareness about consumer policy, product testers who measures the extent to which products meet standards to ensure consumer interest.

   "As per the Consumer Protection Act, a ‘Consumer’ has been defined as “any person who buys goods/services for consideration which has been paid

or promised or partly paid & 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 & partly promised, or under any system of deferred payment, when used is made with the approval of such person, but does not include a person who obtains such goods for resale or any commercial purpose.

Philip Kotler defines, consumerism as “a social movement seeking to augment the rights and power of the buyers in relation to sellers”.

Kenneth Dameron describes the consumer movement as “the organization, activities and attitudes of consumers in their relation to the distribution of goods and services.”

Consumerism is a universal phenomena and our interdependence on different sections of the populous has made the consumer more vulnerable.

The consumer search for a luxurious and comfortable life style has put a tremendous pressure on the supply side for goods and services resulting into failure to meet the increased expectations.

Richard, H.B. and James T. Rothe, defines consumerism as “the organized efforts of consumers, seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of their standard of living.”

Scrupulous businessmen have realized that the affluent community is early preys to marketing their products/services. Their preferences and lifestyles set standards for community at large and the neorich in particular. The large

section of the middleclass population, make purchases to upgrade their social status. “Emulation is a core component of the 21st Century consumerism.” Consumerism has its critics who specifically pinpoint the ills of a consumerist society that cancerously spread. Social stratification, creating cultural hegemony and thereby a conducive environment to exploit consumers through a divisive brand marketing.

In 1955, economist Victor Lebow stated: “Our enormously productive economy demands that we make consumption our way of life, that we convert the buying and use of goods into rituals, that we seek our spiritual satisfaction and our ego satisfaction in consumption. We need things consumed burned up, worn out, replaced and discarded at an ever-increasing rate.”

The rise of capitalism and free competitions has impacted the consumer, as shortage of goods and services has created a valley of opportunity for the scrupulous business men wanting to make super profits at consumers cost.

The consumer thereby finds himself a victim of unfair trade practices; be it adulteration of goods, use of technical jargons, false advertising, warranty in place of guarantee, deficiency in services etc…

He is exploited as he is vulnerable due to lack of awareness, process, procedure that could be due to literacy levels or indifference.

The awakening of the consumer against such exploitation to an extent has been achieved through dedicated consumer movement bodies that needs appreciation as they have made possible. “The Consumer Protection Act 1986”.

The implementation of the Act has now made possible the consumer as an initiator of economic activism. The nation’s progress is parameter on the basis of the extent in the true sense the protection that the consumer receives.

The sheer large number of production units, the complexity in the distribution and marketing system has necessitated the importance and urgency for an effective system to protect consumers.

The Act helps to safe guard consumers from exploitation as it is based on compensation instead of punitive action. The consumer protection act has developed a well placed organizational setup. The department of consumer affairs, under the ministry of consumer affairs, food and public distribution is one nodal organization for the protection of, rights of consumers', redressal of consumer grievances and promotion of standard of goods and services etc…

The major concern of the government has been protecting the interest of consumers. Legislations and policies have been introduced to help consumers. The government has setup a well placed organizational structure for effective implementation and execution to uphold the rights of consumers.

**Figure 1.1 : Organisational Structure for Lodging Complaints**

![Organisational Structure for Lodging Complaints](chart)

Source : Bare Act –The consumer Protection Act 1986.
To spread consumer awareness the government has established consumer protection council at both central and state level. Their success depends on consumer level vigilance about their rights and responsibilities. Resources have been set aside specifically to assist, promote and protect the interest of consumers.

The initiative in this direction has been the setting up of the centre for consumer studies (CCS) at the Indian Institute of Public Administration (IIPA) this centre carries on intensive research to enhance consumer interest through education.

1.2 Consumer Protection Act, 1986:

The Act is a social enhancer that was made possible due to the efforts of a vigilant and socially conscious consumer activist rallies in an ever-changing environment where the populous is bombarded with media coverage both print & visual about the shortcomings on the part of the suppliers, distributors & all those who form the chain in the channel of distribution providing tangible & intangible goods & services.

The act promotes & protects the rights & interest of consumers through quasi judicial machinery to unburden the established courts by setting up forums/commissions. The purpose being to enforce justice to consumers in less time and cost, with its intent being to prevent the exploitation of the consumers. ¹⁶ As per the latest and important notification: Notification No. SO 270(E), dated 10.03.2003.-in Exercise of the powers conferred by sub-section (2) of section 1 of the Consumer Protection (Amendment) Act, 2002 (62 of 2002), the Central Government hereby appoints the 15th day of March, 2003 as the date on which all the provisions of the said Act shall come into force.¹⁶

¹⁶ Bare Act: The Consumer Protection Act, 1986 (Act No. 68 of 1986)/ pg 7-Sec 2 (www.ncdrc.nic.in/ 1-1-html)
1.2.1 The Act has also encompassed service like:

Medical Care, Banking services, Professional services, rendered by advocates, Insurance agents, educational institutions etc… which are intangible and earlier not included, they now find a place in the Consumer Protection Act through amendments that are legislated since the service sector is one of the major contributors in the GDP to as much as 56% and which is growing at the rate of approximately 5%.

“The term ‘Service’ as defined under Section 2(1) (o) as “to mean service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service.”

1.2.2: Understanding basic rights guaranteed under the Act:

The act guarantees the six basic & statutory rights.

1) The right to be protected.

2) The right to be informed.

3) The right to be assured

4) The right to be heard.

5) The right to seek redressal against the unfair trade practices or unscrupulous exploitation of the consumers.

6) The right to consumer education.

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Table 1.1: Some of the cases that can be listed where services have been given protection under the Consumer Protection Act are *8

<table>
<thead>
<tr>
<th>Sr.</th>
<th>Type of Service</th>
<th>The Case Law</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Transportation / Conveyance</td>
<td>Ravneet Singh Bagga v. KLM Royal Dutch Finitimes [1999970 Scale 43]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td>3</td>
<td>Courier Service</td>
<td>Bharathi Knitting Co. v. DHL Worldwide Express Courier Division of Airfreight Ltd. [1996 (5) SCALE 142 (SC)]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td>4</td>
<td>Post &amp; Telegraph</td>
<td>Department of Posts &amp; Telegraphs v. Dr. R.C. Saxena [R.P. No. 588/95 decided on 8.1.1997 9NCDRC]]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td></td>
<td>Service Type</td>
<td>Case Description</td>
<td>Source</td>
</tr>
<tr>
<td>---</td>
<td>----------------------</td>
<td>----------------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>5</td>
<td>Railways service</td>
<td>In Union Of India v. Nathmal Hansaria [First Appeal No. 692 of 1993 decided on 24.1.1997 (NCDRC)]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td>6</td>
<td>Insurance</td>
<td>Harshad J. Shah v. Life Insurance Corporation of India [1997 (3) SCALE 423 (SC)]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td>7</td>
<td>Electric supply</td>
<td>Delhi Electric supply undertaking v. Basanti Devi [(1999) 6 SCALE 236]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
<tr>
<td>8</td>
<td>Educational service</td>
<td>Sreedharan Nair N. v. Registrar, University of Kerala [2001 CTJ 561 (CP) (NCDRC)]</td>
<td>Economic Labour &amp; Industrial Law – Intermediate course Study material Paper 7, Published by- The directorate of studies &amp; Research ICSI.</td>
</tr>
</tbody>
</table>

8. The Economic Labour & Industrial Law-Intermediate course Study Material Paper 7, Published by – The Directorate of studies & Research Pg 169-175.
1) **To be Protected:**

This right needs to be observed in the spirit of the law that the goods & the services that are being provided adhere to the safety norms to safeguard the life, interest & property of the persons to whom these goods & services are provided.

2) **To be Informed:**

About price, quality, standard for goods and services as a prevention against deception, misleading description or any information which when suppressed usurps the right of making a correct choice of buying that product.

3) **To be Assured:**

That all competitive products & services are made available by dealers for the benefit of the consumers.

4) **To be Heard.**

Being the foremost right of the consumer & the natural principle of justice, they need to be assured that they shall be heard at the appropriate forums & this responsibility is being shouldered by the central Council.

5) **To seek Redress:**

Against rouge business men who have indulged in unethical means.

6) **To Educate consumers:**

To bring about consciousness of their power to, energise them to struggle against exploitation by manufacturers & traders. The responsibility of educating as per the act is to be shouldered by the Central Council.

The government in consortium with several consumer pressure groups, premier amongst them being the CGSI has been legislating, amending several sections of the consumer protection act.
In spite of a plethora of laws to check profiteering, supply of substandard products & services & obligating industry & trade to take care of the consumer, nothing substantial has been achieved, possibly because of economic laws of demand & supply, where demand exceeds supply, lack of choice accompanied with high prices, poor quality & unattractive terms of sale.

Another reason cited for its ineffective implementation is, the law being complicated, costly & time consuming requiring trained experienced law pleaders.

The time taken for constructive effective & deterrent punishment & penalty to defaulters under this act has a time lag of 10 to 20 years or more from the time of filing the complaint to the date of disposal & judgment of the same.

The rural folk continue with the old belief that the justice will prevail with a great sense of religiosity since they relentlessly pursue the case transferred & transformed from one generation to another even at the cost of selling / disposing the meager wealth that they possess in the pursuit of getting justice even though it is delayed.

On the other hand we have the intelligentsia who do not act in consortium in the spirit of the law; possibly being wise by getting things repaired incurring additional cost.

Deficient services being reapplied & paid & obligating the providers of goods and services to do the same may be due to the fast paced life in the city, lack of time, burdensome responsibilities, work culture, income level accessibility etc....

An attempt to analyse the deficiency through an understanding about the awareness of the rights & duties that the consumer is empowered with amongst the intelligentsia should be focused on.
The “consumer courts” is three tier quasi judicial machinery.

Table: 1.2: List of Functional District Forums

<table>
<thead>
<tr>
<th>Area</th>
<th>Set-up</th>
<th>Functional</th>
<th>Non-Functional</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>159</td>
<td>150</td>
<td>09</td>
</tr>
<tr>
<td>North-East</td>
<td>75</td>
<td>70</td>
<td>05</td>
</tr>
<tr>
<td>East</td>
<td>143</td>
<td>132</td>
<td>11</td>
</tr>
<tr>
<td>South</td>
<td>107</td>
<td>106</td>
<td>01</td>
</tr>
<tr>
<td>West</td>
<td>160</td>
<td>160</td>
<td>00</td>
</tr>
</tbody>
</table>

Source: Department of Consumer Affairs Government of India

The district forums have been very active at 95.96% of the total number that are setup throughout the country. They have been able to resolve nearly 92.23% of the nearly 31,23,773 complaints that have been lodged by consumers since inception.

The drawback has been that the time for resolving disputes in 73% of the cases resolved have been more than the time frame prescribed for resolving the disputes as per the act. The reasons for delays have been identified and the ministry dealing in consumer affairs is working on this area to process and resolve the consumer complaints within the given time frame.

Table 1.3: List of the status of Cases at District Forum

<table>
<thead>
<tr>
<th>Area</th>
<th>Cases filed</th>
<th>Cases Resolved</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>16,99,768</td>
<td>15,50,208</td>
<td>1,49,560</td>
</tr>
<tr>
<td>North-East</td>
<td>23,054</td>
<td>20,340</td>
<td>2,714</td>
</tr>
<tr>
<td>East</td>
<td>3,55,820</td>
<td>3,23,074</td>
<td>32,746</td>
</tr>
<tr>
<td>South</td>
<td>6,56,730</td>
<td>6,28,469</td>
<td>28,378</td>
</tr>
<tr>
<td>West</td>
<td>6,51,390</td>
<td>6,01,682</td>
<td>49,591</td>
</tr>
</tbody>
</table>

Source: Department of Consumer Affairs Govt. of India as on 24.3.2014.
### Table 1.4: List of the status of Cases at State Commissions

<table>
<thead>
<tr>
<th>Area</th>
<th>Cases filed</th>
<th>Cases Resolved</th>
<th>Pending</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>2,68,574</td>
<td>2,25,666</td>
<td>42,908</td>
</tr>
<tr>
<td>North-East</td>
<td>4,939</td>
<td>4,316</td>
<td>623</td>
</tr>
<tr>
<td>East</td>
<td>73,566</td>
<td>58,520</td>
<td>15,046</td>
</tr>
<tr>
<td>South</td>
<td>1,29,912</td>
<td>1,20,668</td>
<td>9,244</td>
</tr>
<tr>
<td>West</td>
<td>1,53,921</td>
<td>1,30,190</td>
<td>23,731</td>
</tr>
</tbody>
</table>

Source: Govt. of India - Department of Consumer Affairs.

### Table 1.5 Total Consumer Complaints Filed & Resolved under CPA.

<table>
<thead>
<tr>
<th>Institution</th>
<th>Filed</th>
<th>Resolved</th>
<th>Pending</th>
<th>% Resolved</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Commission</td>
<td>87693</td>
<td>76314</td>
<td>11379</td>
<td>87.02%</td>
</tr>
<tr>
<td>State Commission</td>
<td>630912</td>
<td>539360</td>
<td>91552</td>
<td>85.49%</td>
</tr>
<tr>
<td>District Forums</td>
<td>3386762</td>
<td>3123773</td>
<td>262989</td>
<td>92.23%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>4105367</td>
<td>3739447</td>
<td>365920</td>
<td>91.09%</td>
</tr>
</tbody>
</table>

Source: Government Of India Department Of Consumer Affairs

### Table 1.6: List of the Cases resolved at Lokadalat

<table>
<thead>
<tr>
<th>Area</th>
<th>State Commission</th>
<th>District Forum</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>1,750</td>
<td>25,232</td>
</tr>
<tr>
<td>North-East</td>
<td>01</td>
<td>Nil</td>
</tr>
<tr>
<td>East</td>
<td>136</td>
<td>816</td>
</tr>
<tr>
<td>South</td>
<td>Nil</td>
<td>Nil</td>
</tr>
<tr>
<td>West</td>
<td>189</td>
<td>5,230</td>
</tr>
<tr>
<td>TOTAL</td>
<td>2,076</td>
<td>31,278</td>
</tr>
</tbody>
</table>

Source: Government Of India Department Of Consumer Affairs
The ancient text *Arthashastra*, has references of the consumer movement, so it is not surprising that rouge business men existed even in those times. Their offences ranged from adulteration to cheating in weights for which the King ordered punishments. The only shortcoming was that it was unorganized that is it lacked consistency.

Prior to independence awareness levels were in consistent and very low and dismissal.

The Indian consumer being God fearing accepted shortcomings and misadventures as a handiwork of God due to the influence of the ancient text and belief in astrology.

The title “Consumer is King “, seems to be out of context, looking at their plight, they seem to be bonded servants “No exchange No Refund “ is the policy of rouge businessmen imposed on hapless consumers.

The Ministry of commerce has been off late legislating, amending the Consumer protection Act and several other acts connected directly or indirectly to enhance safety, security, the interest of consumers due to the advent of a globalised economy in which education, responsibility & liability of the manufacturer, service provider & others have increased in reference to the consumers during integration of markets of different countries where the physical boundaries have disappeared due to new innovative e-marketing.

The Indian constitution provides every citizen the right to dignity and welfare. The act is empowered by the articles of the constitution no.14 and 19.

Good governance requires ethics, transparency, accountability, empowerment, impartiality and the active participation of citizens. Its effective implementation will promote good governance.

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### Table 1.7: List of Acts used by Consumers before the introduction of Consumer Protection Act 1986

*Source: Bare Acts Primary*

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the Law</th>
<th>Year</th>
<th>Brief Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The Essential Commodities Act.</td>
<td>1955</td>
<td>To provide in public interest the control of production, supply &amp; distribution for trade and commerce in certain commodities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>amended 1982</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>The Trade and Merchandise Marks Act.</td>
<td>1958</td>
<td>To provide for registration trademarks and prevention of the use of fraudulent marks on merchandise.</td>
</tr>
<tr>
<td>3</td>
<td>The Trade Mark Act</td>
<td>1999</td>
<td>To amend &amp; consolidate the law relating to its fraudulent use.</td>
</tr>
<tr>
<td>4</td>
<td>The Drugs &amp; Cosmetic Act.</td>
<td>1940</td>
<td>To regulate the import, manufacture, distribution and sale of drugs and to prevent sub-standards drugs.</td>
</tr>
<tr>
<td>5</td>
<td>The Drugs &amp; Magic Remedies (Objectionable Advertisements) Act.</td>
<td>1954</td>
<td>To control the advertisement of drugs which either directly or indirectly gives a false impression of a drug.</td>
</tr>
<tr>
<td>6</td>
<td>The Indian Standard Institution (Certification Marks) Act.</td>
<td>1952</td>
<td>To provide standards for large number of products with regards to specification of materials to be used, processes to be applied standards have been fixed for strength, finish &amp; safety.</td>
</tr>
<tr>
<td>7</td>
<td>The Agricultural Produce (Grading &amp; Marketing Act.</td>
<td>1937</td>
<td>To provide for the grading and marking of agricultural produce.</td>
</tr>
<tr>
<td></td>
<td>The Standards of Weights &amp; Measures Act</td>
<td>1976</td>
<td>To establish standards of weights and measures for goods that are sold by weights or measures.</td>
</tr>
<tr>
<td>---</td>
<td>---------------------------------------</td>
<td>------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>9</td>
<td>The Prevention of Food Adulteration Act.</td>
<td>1954 Amended 2008</td>
<td>To ensure the prevention of adulteration of food and to ensure purity in the articles of food.</td>
</tr>
<tr>
<td>10</td>
<td>The Fruit Products Order.</td>
<td>1955</td>
<td>To exercise quality control over fruit and vegetable products.</td>
</tr>
<tr>
<td>12</td>
<td>The Hire Purchase Act.</td>
<td>1972</td>
<td>To define and regulate the rights and duties of the parties to a hire purchase agreement.</td>
</tr>
<tr>
<td>13</td>
<td>Household Electrical Appliances (Quality Control) Order.</td>
<td>1976</td>
<td>To specify standards for any household electrical appliances for the safety of the common man who uses them without any special knowledge of them.</td>
</tr>
<tr>
<td>14</td>
<td>Prevention of Black Marketing &amp; Maintenance of Essential Commodities Act.</td>
<td>1980</td>
<td>To prevent black marketing and to maintain the proper supply and distribution of essential commodities.</td>
</tr>
<tr>
<td>15</td>
<td>The Indian Penal Code</td>
<td>1860</td>
<td>It contains provisions in connection with consumer protection. It provides penalties for offences.</td>
</tr>
<tr>
<td>No.</td>
<td>Act Name</td>
<td>Year</td>
<td>Description</td>
</tr>
<tr>
<td>-----</td>
<td>---------------------------------------------------</td>
<td>--------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>16</td>
<td>The Indian Contract Act</td>
<td>1872</td>
<td>It sowed the seeds of consumer protection. It deals with the buyer’s right to annul agreement made without free consent and to claim damages for the loss and damage caused by breach of contract.</td>
</tr>
<tr>
<td>17</td>
<td>The Poisons Act</td>
<td>1919</td>
<td>Regulates the importation, possession and sale of Poisons and empowers notification of certain substances as poisons.</td>
</tr>
<tr>
<td>18</td>
<td>The Dangerous Drugs Act</td>
<td>1930</td>
<td>The control and implementation is vested with the Union government.</td>
</tr>
<tr>
<td>19</td>
<td>The Sale of Goods Act</td>
<td>1930</td>
<td>Sections 12 to 18 of the Sale of Goods Act of 1930 Entitle the consumer to goods in a fit, proper and consumable condition. It provides for legal remedy in case of breach of contract or warranty</td>
</tr>
<tr>
<td>20</td>
<td>The Drugs (Control) Act</td>
<td>1950</td>
<td>The Act seeks to ensure that certain essential imported drugs and medicines are sold at reasonable prices and that they are available.</td>
</tr>
<tr>
<td>21</td>
<td>Industries Development and Regulation Act</td>
<td>1951</td>
<td>The Act provides for the development and regulation of certain industries by licensing them</td>
</tr>
<tr>
<td></td>
<td>Act Name</td>
<td>Year</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---------------------------------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>The Essential Commodities Act</td>
<td>1955</td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>The Companies Act</td>
<td>1956</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>The Specific Relief Act</td>
<td>1963</td>
<td></td>
</tr>
</tbody>
</table>

**The Essential Commodities Act 1955**

It Covers production, supply and distribution of certain commodities in trade and commerce. Items under this Act are coal, textiles, drugs, foodstuffs, paper, petrol, sugar, cement etc. The Act provides for the constitution of special courts and for trial, in a summary way, of all offences against the provision of this sort.

**The Companies Act 1956**


**The Specific Relief Act 1963**

The Law of specific relief is a kind of procedural law and, in a way, it is a supplement to the Code of Civil Procedure, 1908. The Act deals, from the consumer's point of view, under (section 8), and (Section 13), right to claim compensation and power to award compensation in certain cases (Section 21),
<table>
<thead>
<tr>
<th>No.</th>
<th>ActTitle</th>
<th>ActYear</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>Essential Service Maintenance Act (ESM)</td>
<td>1968</td>
<td>Authorizes the Central Government to prohibit strikes in essential services like Posts, Telegraphs, Telephones and Defence Establishments and provides for penalties for participating in or financing such strikes.</td>
</tr>
<tr>
<td>26</td>
<td>The Code of Criminal Procedure</td>
<td>1973</td>
<td>Protect the consumer in some degree. Section 153 of the Code empowers a station-house officer to enter any place without warrant for the purpose of inspecting or searching for any weights or measures or instruments for weighing, in the belief that such weights, measures or instruments for weighing are false. To seize the same in the larger public good.</td>
</tr>
<tr>
<td>27</td>
<td>The Water (Prevention and Control of Pollution) Act</td>
<td>1974</td>
<td>Restricts the discharge of industrial waste into rivers, streams and wells, in order to prevent and control water pollution and thereby to maintain the purity of water. Both fine and imprisonment have been provided for the violators of this law.</td>
</tr>
<tr>
<td>28</td>
<td>The Cigarettes (Regulation of Production, supply and Distribution) Act</td>
<td>1975</td>
<td>to regulate, production, supply and distribution of cigarettes. It creates a health hazard for the smoker as well as those around him.</td>
</tr>
<tr>
<td></td>
<td>The Standards of Weights and Measurements (Packaged Commodities) Rules</td>
<td>1977</td>
<td>This Act make it mandatory that all packages intended for retail sale shall have written on them the name and address of the manufacturer, packer, the name of the commodity packed, the net weight or measures of the commodity, the month and year of packing.</td>
</tr>
<tr>
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</tr>
<tr>
<td>30</td>
<td>The Air (Prevention and Control of Pollution) Act</td>
<td>1981</td>
<td>Provides for the prevention, control and abatement of Air Pollution.</td>
</tr>
<tr>
<td>31</td>
<td>The Narcotics Drugs and Psychotropic Substances Act</td>
<td>1985</td>
<td>Act has consolidated and amended the Law relating to the narcotic drugs and made stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances and other related matters.</td>
</tr>
<tr>
<td>32</td>
<td>The Bureau of Indian Standards Act</td>
<td>1986</td>
<td>The law was enacted in order to develop the activities of standardization, marking and quality certification of products. Section 10 lays down its functions</td>
</tr>
<tr>
<td>No.</td>
<td>Act/Regulation</td>
<td>Year</td>
<td>Description</td>
</tr>
<tr>
<td>-----</td>
<td>-----------------------------------------------------</td>
<td>------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>33</td>
<td>Environment Protection Act</td>
<td>1986</td>
<td>The Act is the most comprehensive piece of legislation relating to environment as it (i) contains a very wide definition of environment; (ii) empowers the Central Government to take strict actions and (iii) provides for penalties for various offences. The objective is to improve the environment.</td>
</tr>
<tr>
<td>34</td>
<td>Consumer Protection (Amendment) Act</td>
<td>1993</td>
<td>The Consumer Protection (Amendment) Bill, 1993 received the final approval of the Parliament on August 28, 1993, and it provides for quick redressal of grievances of consumers. Amendments were made to plug the loophole noticed in the working of the Act during the previous two years.</td>
</tr>
<tr>
<td>35</td>
<td>The Textiles (Consumer Protection) Regulation</td>
<td>1988</td>
<td>According to the notification, effective from 15 June, 1988 the Ministry of Textiles, Government of India, it is made compulsory that all tests carried out in pursuance of Textile (Consumer Protection) Regulation, 1988, shall be with reference to the standards prescribed by the Bureau of Indian Standards.</td>
</tr>
</tbody>
</table>
It may be mentioned at the outset that anyone interested in the task of consumer protection movement has to be well versed in various laws and not merely with the Consumer Protection Act, 1986.

| 36 | Consumer Protection Act | 1986 amended 2013 |

A Consumer should have knowledge of laws relating to Contract, Tort, Railways, Telegraphs, Telephones, Post, Air Travel, Insurance, Electricity, Water, Housing, Medicine, Banking, Finance, Engineering, Motor Vehicles, Hotel Industry, Entertainment, Cooperative Societies, Tourism Agencies, Sales Tax, Central Excise, Limitation, Transport etc.

There is no limit to subjects, which may come before a Consumer Forum / Commission for decision. In addition, one should also be well versed with the laws relating to unfair trade practice and restrictive trade practices.

Punitive and preventive in nature, In spite of these Acts the consumers did not have any effective mechanism or institutional arrangement for the speedy redressal of their grievances and also the lack of effective popular movement isolated the consumer and his plight only increased.

The continuous and unrelenting agitation and people’s movement by protection groups and the consumer themselves compelled the Parliament to enact the Consumer Protection Act in 1986.

1.2.3 The purpose of this Act is

1) To provide quality goods & services of requisite standards.

2) To bring a semblence of balance between consumers & product & service providers.

3) Re-enforce & strengthen the mechanism to make the laws effective.
4) To disseminate information through publications, seminars, workshops, print & visual media in order to educate the society about the importance of the Law in spirit & practice.

1.3 The Historical Perspective of the consumer movement in India:

1.3.1 Introduction:

Consumer movement or consumerism has been a sustained efforts of the past civilization which continues in the present 21\textsuperscript{st} Century. The consumer movement has been working relentlessly to position the customer in a strong bargaining position. In the past few centuries the religious heads or states dominated; having a major stake and say in regulating the affairs of the market with the central character the consumer lost out of sight. A fair price was of prime concerns in the past centuries to help consumers.

The Tudor dynasty brought about regulations in conduct in the medieval markets. To prevent monopolistic tendencies legislations were enacted to protect the consumer. The 19\textsuperscript{th} century observed price controls to regulate prices, in the 21\textsuperscript{st} it century revolves along a political agenda to heighten consumer conscience against rouge businessmen.

1.3.2 Ancient Period:

Indian civilization is deeply rooted with consumer protection. In 3300 great importance was given to values and they were cherished. The feudal lords gave prime importance to the welfare of their subjects by regulating economic and social conditions. Ancient India followed ‘Dharma’\textsuperscript{10} that set social norms for Human Relation, this was derived from Vedas’\textsuperscript{11}.

Literature documenting living conditions of the people during the ancient period is available in divine writings that includes Smriti\textsuperscript{12} and Sruti\textsuperscript{13}, that prescribed codes to guide rulers are identified in their literary works.

The authoritative texts among the Dharmas are:

i) Katyayana

ii) Bruhaspati

iii) Narada

iv) Yajnavalkya

v) Manu Smriti

The most influential was ‘Manu Smriti’. It is a commentary describing the social, political and economical conditions of the ancient society. Manu\textsuperscript{14} the ancient law giver, has records about ethical trade practices prescribing a code of conduct for traders and punishments for crimes against consumers be it adulteration, short/less weight then contracted, or concealment of facts. Manu can be cited as one of the first pioneers to lay down rules. The Kings/rulers were empowered to punish the traders. The entire property of traders in two instances: First\textsuperscript{15} where the state was the sole exporter of goods and second\textsuperscript{16} when selling goods outside the state was not allowed.

The rulers fixed rates for purchases and sales of all marketable goods and those not adhering to control prices were punished. Dishonesty towards honest customers was penalized. Inspection of all weights and measures every half year was the norm.

These measures definitely uphold and throw light on the importance to correct malpractices in the markets. In fact Manu Smriti that effectively dealt

\textsuperscript{12} Ibid 9 –p22
\textsuperscript{13} Ibid 9 –p22
\textsuperscript{15} Ibid 9- p22
\textsuperscript{16} Ibid 9- p22
with a wide range of consumer matters has remained as a main source for incorporation into our modern legal system Kautilya’s Arthashastra\textsuperscript{17} that was written subsequent to Manu Smriti is a treatise and a valuable source for statecraft.\textsuperscript{18} that was monitored by a director of trade. He was made responsible for fair trade practices.\textsuperscript{19}.

The person appointed was required to be knowledgeable about expensive goods and their competitive prices wherever they were produced.\textsuperscript{20} Kautilyas had observed the need for establishing standard weights and measures that need to be stamped compulsorily; failure inviting penalty.

Trade guilds were prohibited against block marketing and unfair trade practices inviting punishment. Kautilya balanced the law accounting for the rights of the traders with reference to receipt of price for articles sold and return of articles. Chandragupta’s period regulated the place for sale of goods and the requirement for traders to declaring all details of their product. The best of this period was easy access to justice for all.

The king listened to complaints provided it found merit and from a person only directly aggrieved. The court systems were well structured of that era.

1.3.3 Medieval Period:

The ancient periods relentless efforts continued into the medieval period\textsuperscript{21} that was well reflected during the Muslim rule with reference to weights and measures. In the sultanate\textsuperscript{22} period prices were determined by local conditions, with punishment for under weighing of goods.

\begin{thebibliography}{99}
\bibitem{19} Ibid 18
\bibitem{20} Ibid 9- p22
\bibitem{22} Ibid 9- p22
\end{thebibliography}
1.3.4 **Modern Period:**

The British rule replaced a well practiced and authenticated legal system, credit to the British rulers could be given only for unifying nationwide legal system introducing in a very revolutionary way the English legal system to administer justice.

Over a period of time the English law itself was considerably adapted to incorporate Indian customs and traditions discarding British localism and anomalies with indigenous understanding to suit the Indian continent over two centuries.

The system that we have inherited in the present day has an Indian outlook\(^\text{23}\) The Law passed by the British Parliament to administer control of the British Parliament and British Crown during the period 1600 to 1947.

The laws passed during the British rule to protect consumers were (i) the Indian contract Act of 1972 (ii) Usurious Loan Act of 1918 (iii) sale of goods Act of 1930 (iv) Drugs and Cosmetic Act of 1940 (v) The Agriculture Produce. The sale of Goods Act (SGA) of 1930 was the exclusive Act for the consumer Protection Act, 1986. The SGA is definitely a very precise piece of legislation and titled as ‘Consumer Charter’ as safeguarding the consumer interest using phrases to effectively remedy consumer interest.

After independence our legislators/parliamentarians to protect consumers in addition to the SGA of 1930 and the Indian Penal code of 1860 within India’s criminal justice system, supplemented and strengthened the consumer’s interest with the introduction of:


The importance of this legislation to the consumer is that to instill the belief that there is no wrong doing on their part. The criminal law courts are acquiring immense significance as consumers are indifferent towards small claims sought in civil courts.

According to Gordon Borrie he states the criminal courts give consumers a very high level of protection which is time tested. Besides the contract and criminal law consumers also have the option of pursuing their rights under the tort law but statistics available have shown that it is less pursued as it requires consumers to prove negligence on the part of seller/service provider.”

The problems faced by consumers under the contract, criminal and tort laws resulted in the creation of one single effective legislation that we refer as the Consumer Protection Act, 1986 which is simple to understand, quick to implement and less expensive.

1.4 The historical perspective of the International Consumer movement

1.4.1 The United States of America (USA):

Consumer Protection per se in the USA has been responses to crisis that have witnessed public outrage, in the form of specific legal responses also nicknamed waves. It began in the 19th century against the background of common law that believed in the spirit of let the buyer beware.

Decades of legislations impacting consumers on areas of private rights with backing to consumers to sue for damages, litigation cost etc… if the consumer could prove harm from the illegal practice.

The first wave was ignited by the expose in the food packing industry by Upton Sinchair in his bestselling novel “The jungle in the year 1905 which paved the way for the first most comprehensive legislation for food and safety.

The Consumers Union of United States was chartered in 1936 by state of New-York to provide information and counsel on consumer goods and services.\(^{25}\) In the early twentieth century a wide range of local state and federal regulatory agencies and laws were initiated to protect the consumer called the second wave.

The third wave that began in 1960s is attributed to the then President Kennedy who introduced a consumer bill of Rights, the Great Society’ program initiated by the Johnson Administration followed by Ralph Nader who highlighted the problem of dangerous goods and the urgency for regulations.

The fourth invited the most significant change in federal consumer protection in the year 2009 as a result of the worldwide financial crisis that brought about the Dodd Frank Wall Street Reform and Consumer Protection Act of 2009. It is disheartening to note that the consumer protection legislations lack centralization and inequality of access to government and courts but is credited as it holds depth and variety of protection.

As far as the organization for upholding Consumer Inherent, the US has:

I) **Federal mechanism for Consumer Protection.**

The principal agency is FTC\(^ {26} \) to administer a range of consumer protection laws. The FTC has two Principal goals:

1. To prevent frauds, unfair business practices and deception in the market place.

2. To prevent anticompetitive business practices and thereby encouraging healthy competitions.

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The Jurisdiction of this commission is as per FTC\textsuperscript{27}. The FTC investigates and uncovers any violations. Respondent violation can attract penalty. It is not empowered to enforce criminal charges.

The Bureau of Consumer Protection executes FTC’s mandate for protecting consumers against unfair, fraudulent and deceptive practices through its seven divisions they include: Financial practices, Privacy and Identity Protection, Advertising practices and marketing Practices.

**Important among them:**

i) **Enhancing skills**

ii) **Dissemination of information to consumers**.

The spotlight is on the young consumers to be smarter shoppers through publications such as ‘The Real Deal’, that innovatively teaches through use of cartoons puzzles and games.


FTC’s initiative to reduce dealing with individual laws enforcement and complaints and instead strengthen rule making and innovative market oriented solutions that affect the privacy of the consumers.

The Bureau of consumer financial protection to conduct financial programs; collecting, investigating and responding to consumer complaints, researching and publishing information relevant to the functioning of markets for consumer financial products and services by identifying risk and supervising covered persons for compliance with federal consumer financial law.

The Bureau is empowered to enact previous to Consumer Laws Leasing Act of 1976, The Equal Credit Opportunity Act, The Fair Credit Reporting Act, the Truth in Lending Act, The Truth in Savings Act among others.\textsuperscript{28}

These are led by a Director who establishes these three departments called

a) ‘Specific Functional Unit’,

b) Community Affairs and

c) Complaint Collection and Tracking

Besides these units there are four separate offices within the Bureau: the office for Fair Lending and Equal Opportunity, the office for Financial Education, the office of Service Member Affairs and the office of Financial Protection for older Americans.\textsuperscript{29}

II) **State mechanism for Consumer Protection:**

The States plays a dual role of law enforces and pleader, which is highly decentralized in the presence of any agency \textsuperscript{30}

III) **Private Rights of Actions for Consumers:**

They use federal and state court to protect themselves from deceit and fraud in the market place. The state and federal court operate independently there are vast areas of commonalities in the rights and actions protecting consumers. Some of these are:

a) Common Law Trots.

b) State Unfair Trade Practices Statutes.

c) Class Actions and Attorney fee shifting

d) Uniform Commercial Code.


\textsuperscript{29} Ibid 28

\textsuperscript{30} Ibid 28
IV) Consumer Credit and Debt Collection:

Since most/major purchases in USA are made through credit and debit cards. A variety of laws to protect credit consumers from frauds are initiated, they are as follows:

a) Credit reports – Amendment to Fair Credit Reporting Act in 2003.

b) Credit Disclosures.

c) Debt Collection

d) The Credit Card Act.

V) Consumer Associations:

These strengthen the consumers interest. A few of them are as follows:

a) Consumer Federation of America

b) Institute for Consumers Antitrust Studies

c) National Consumer Law Centre


In conclusion we can state that the high per capita income provides a semblance of reasonably competitive environment with consumer dependent on Government law pleader.

Even though there is no obligation to provide legal aid, the consumers are still benefited as the government agencies initiate action on behalf of the consumer. The United States being the most developed country still has a long way to go to protect consumers, specifically in educating consumers on their working knowledge in terms of their rights and duties as a consumer to effectively protect themselves.
1.4.2 : Japan

The mid 1950s witnessed rapid Industrial development supplemented by high economic growth in Japan. It was an era that hurt consumers due to defective products as the consumer was exposed to a spate of new consumer goods, appliances and services. It revolutionized the consumer by his awareness in product safety. The government of Japan established for the first time a structure of consumer policy in the mid-1960s with its evolution to the present time.

The Consumer Affairs division was set up in 1964 and the consumer Act was passed in 1968 to implement consumer policies. In the 1970s product safety was important, sales methods and sales contracts was the source of consumer problems.

In 1980 consumer witnessed difficulties in the financial arena of multiple debts and asset management that invited measures to rationalize consumer credit transactions.

In 1990s and onwards saw the establishment of the Product Liability Act and Consumer Contract Act. The best and the most effective is the emphasis on consumer education as a specific course of study concerning consumers lives was introduced in schools as a part of their curriculum.

In recent times consumer trust in business has been greatly affected due to frequent business misconduct. Growth of internet transactions has become more diversified and complicated. This has led to new innovative consumer protection initiatives.

In April 2002 an interim report was issued titled, ‘Building up Consumer Confidence in business : Guidelines for Corporate Codes of Conduct’.

This report initiated the process of revitalizing the Consumer Protection Fundamental Act and in 2003 a final report was developed called the “Ideal Consumer Policy for the 21st century”.

Figure 1.2: Structure of Consumer Policy Regime for Japan

Source: Consumer Affairs Agency Government Of Japan

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32. Copyright 2009 Consumer Affairs Agency, Government of Japan
The report recognized consumers as independent entities” instead of as “those who are protected”. The Consumer Protection council revised the consumer Protection Fundamental Act, prepared the system to protect whistle to blowers, systemized enable consumer organizations to take legal proceeding in 2004 was legislated called the Consumer Protection Act in June 2004.

The Japanese economy and Society has become sophisticated and diversified, this calls for enriching the consumers with information and educating them to take decisions independently.

The cabinet implemented a program to educate and train consumers with its focus being the school teachers designating the month of May as “Consumer Month” to promote consumer enlightenment, through meetings, poster and propagation and enlightenment activities.

In 2006 the Consumer Contract Act was revised which witnessed insertion against business houses, for business performance for quality adherence.

1.4.3 : European Union (EU)

The consumer movement in Europe is replicate as The United States of America. The European Economic Community (EEC) that comprises the Council of Europe has been making sustained efforts to enhance and protect consumer interest by institutionalizing the process of policy through consultation having representative of consumers and consumer body’s as representatives in constitutional bodies for introducing and enacting legislation to keep up with the ever evolving business environment.

The economic, geographical historical political, legal and executive systems that vary from one country to another had made things difficult to conceptualize the system for consumer protection and disseminating information but with constant efforts of member countries ‘The Consumer Protection Act, 2007’ came into effect on 1st May, 2007. The Act is comprehensive in a true sense.
The law is aimed at fostering compliance with consumer legislation, through a code of practice and enforcement measures.

There are three main elements of the Act:

1) The establishment of the National Consumer Agency (NCA) on a statutory basis:

The NCA was set up on 1st May, 2007 as an independent body. It is vested with the powers of the Director of Consumer Affairs. It is designated with the responsibility of protecting and promoting the interests and welfare of consumers through enforcement of consumer legislation, advocacy, research, education and awareness.

2) Updating and Consolidating consumer legislation:

3) Transposing.

The UCPD was adopted in May 2005 by the European Union Directive. The rules are intended to give consumers the same protection against unfair practices and dishonest/unscrupulous traders whether it is a local buy or an import. Three distinct types of unfair commercial practices are listed:

i) Misleading practices (actions & omissions):

Taking into account:

- The ‘average consumer test’ and
- The traders’ professional diligence.

ii) Aggressive practices: The act prevents business in undertaking aggressive commercial practices amongst them are:

- Use of abusive language.

- Exploitation of consumer’s when the trader is aware that the consumer’s judgment is impaired.
iii) **Prohibited practices (Black list)**: The Act lists 32 commercial practices which are prohibited in all circumstances. Specific among them being the Pyramid Promotion Schemes,

Powers given to NCA:

- Prosecution
- Compliance notice
- Undertakings
- Prohibition orders and
- Fixed payment notices

It also empowers NCA to prepare, guidelines to traders as evidence in court.

**Specific function of the National Consumer Agency is:**

i) To work with and in consultation with consumer groups & authorities concerned with consumer protection

ii) Conduct commission research

iii) Promote (ADR) Alternative Dispute Resolution

iv) Promote Public Awareness

v) Promote Educational initiatives

vi) Review and approve relevant codes of practices

The member states of the European Union are bound by the consumer protection directives of the EU. It has emerged as an independent area of law.

When domestic law is in question the matter is treated judicially as contract, tort, criminal or even restitution law.

The consumer complaints are directed to the Director General of fair trade, which investigation and impose injunction or direct it as a matter of litigation. It
acts as a watch dog, to protect consumers and the local level through the Trading Standards departments

1.4.4: South Africa:  

Consumer Protection had remained largely unregulated due to half baked legislations which impacted basic Consumer rights. On 1st April, 2011 The South African National Consumer Protection Act, 68 of 2009 came into effect.

The consumer Protection Act (CPA) aims to ‘promote fairness, openness and good business practices between suppliers of goods and services’.

The CPA is the intent of the Department of Trade and Industry ‘to create and promote an economic environment that strengthens and supports consumers rights and responsibilities’.

South Africa emulate the first world countries and aligns with the United Nations and the European Union guidelines on Consumer protection by codifying a common law for consumer rights.

1.4.5: China:  

The consumer Protection Law was adopted in 1993 in China. This law has been amended on October 25, 2013 and has come into effect on 15th March, 2014. The aim of these amendments is to protect the legitimate interest and rights of consumers.

China’s National People’s Congress passed the decision on Revising the consumer Protection Law (order No. 7 of the President here in after referred to as the ‘Decision’).

Highlights of the new improved law are:

i) Regulating the e-commerce industry

ii) Strengthening the joint liabilities of false advertisement publishers and e-trade platforms.

iii) Placing the burden of proof on service providers in the event of a dispute.

iv) Imposing higher compensation

v) Banning unauthorized disclosures of consumers personal information

vi) Clarifying the role of consumer associations and

vii) Establishing a credit file to record illegal acts.

Globalization has enforced the need for the consumer Movement to be adopted as a World Wide Movement.

The international Organisation of consumer Union (IOCU) that was setup in 1960 acts as a link between the consumer organizations from more than 75 countries.

The need to empower the consumer is acknowledge across the globe by Governments, multinationals et al. the IOCU advocates the interest of consumers at the international level. The guidelines issued by the United Nations have evolved from the Consumer Protection Code.

**1.4.6 : United Nations**

It issued of general guidelines for consumer protection that was adopted unanimously by the United Nations General Assembly on the 9th of April, 1985.

This is a major initiative by all countries for the development of a good consumer policy.
The adoption of these guidelines are reinforcement of the need to protect the consumers against exploitation by the rouge businessmen as not just a developing country phenomena but a global one.

These guidelines are termed as a “Charter of Human Rights”. They are a set of minimum objectives. In the developing countries the consumers are economically weak and educational levels low, they are given access to n-hazardous goods, promoting an equitable, just and sustainable economic and social development.

These objectives of these guidelines are:

i) Provide greater choice at lower prices.

ii) Facilitate the development of independent consumer groups.

iii) Curb abusive business practices.

iv) Encourage of Ethical conduct for businessmen.

v) Facilitate the manufacture and distribution of services and goods responsive to the needs and desires of consumers.

vi) Assist countries in protecting the interest of consumers.