CHAPTER II

CONSUMER MOVEMENT: A GLOBAL PERSPECTIVE

In early period of the development of human society, man was near to the nature and was completely dependent upon natural resources and products for his need. An enormous increase in population and greater demands of the people to lead a better and comfortable life, the consumption rate increased manifold. There is always a scarcity of products in the market resulting in enormous increase of price of essential commodities beyond the reach of a common man. The mass production and intense competition has further generated a fundamental imbalance in the market place leaving the consumer confused. The consumers are vulnerable to unfair deals by the supplier of goods and services. Unaware consumers are paying the price for the irresponsible action of the industry and the short sighted policies of the government.¹

These circumstances led to the development of voluntary organisations. The consumer felt the need to unite and seek redressal for their grievances, fight for their rights and demand a measure of accountability from the government and the business community.

Most of the consumer groups, particularly in India and abroad, started as a group of people organizing to solve regional and local problems but today the voluntary organisations are quite forceful and have moved on to larger issues.

The United States has been a leader in consumerism in the world since consumers first began to recognize that they had right in the market place. This can be related to the Boston Tea Party in 1773, in which American patriots boarded British ships and tossed increasing tea chests in protest to unfair taxes. Further, the formation of National Consumer League in 1899 was an indication of the growing strength of the consumer movement. Some studies have shown that some consumer groups existed in the United State as early as the middle of 19th century.2

The late 1960's also saw the rise of a charismatic consumer Champion Ralph Nader, whose efforts coupled with an increasing public awareness of consumer problems, led the consumer movement to the present state as a growing social, economic and political force. Ralph Nader’s book ‘Unsafe at any Speed’ brought the consumer safety issue to the forefront.3

By 1962, consumer’s interest had gained a lot of importance as John F. Kennedy, the then president of USA prevailed upon the United States Congress to stamp its approval on a ‘Consumer Bill of Rights’.4 Henceforth, every year 15th of March is observed as the World Consumer Right Day.

In United States of America, the early 1970's saw the beginning of pay off for consumer movement worth for fairness in the market place, for example, consumer advocates in the retail food industry were leading the

* The Consumer advocates in the retail food industry were leading the way to more specific of products.
way to more specific pricing products. Further, as the consumer movement headed into the middle of the decade, (1975) there was a growing diffuseness, as a result, various consumer groups began to branch off into specialists. Although they began to tackle different problems, all were striving towards the common goal of representing customers' interest.\(^5\)

There is no doubt that the process of protecting the interest of consumers was initiated voluntarily but mention has to be made of one such enactment that was made as early as 1890, the first anti-trust legislation, namely, the Sherman Act, 1890. The Act declared "every contract, combination in the form of trust or otherwise or conspiracy in restraint of trade to be illegal."\(^6\) But this Act could not respond in the widespread pressures for increased protection of consumer. To meet this demand, another major legislation was passed in 1914, the Federal Trade Commission Act which is the oldest and the most prominent statutes for the protection of consumers to correct, unfair methods of competition. In 1938, the Act was amended by Wheeler-lee Act extending the scope of the Act to corner 'unfair' or deceptive facts or practices as well as unfair methods of competition. In 1975, the Magnuson-Moss Warranty-Federal Trade Commission's Improvement Act further strengthened the Commission's rule making and other authority over unfair and deceptive acts and practices. In addition to aforesaid legislation there are a number of other legislations which provide protection to the consumers in several ways*.

Similarly, Great Britain too did not lag behind in taking initiative to protect the consumers. The consumer movement began to gain momentum during the years following the second world war through voluntary actions

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\(^5\) Sherman Act, 1890. Sec.1.


mostly taken by women’s organisations. For the first time one of the leading political parties came in the limelight, when in 1955 the Labour party put out a pamphlet entitled “Battle for the Consumer.” It not only argued the case for quality marketing goods but also for the setting up of a consumer council. Another significant development of the late fifties was the establishment of a Retail Trading Standards Association with the primary objective of helping to resolve disputes between retailers and their consumers. It was this development that compelled the government to appoint the Molony Committee in late fifties to report on what changes in the law were needed for further protection of consuming public and to make recommendations. On the basis of this report, the government appointed a Consumer Council in 1963 and several Acts were passed in the following years.\footnote{M.V. Pylee. “Consumer Protection in Developing Society”. p. 9 quoted in Consumer Protection and legal contract by P. Leelakrisnan. Eastern Book House. Lucknow. 1998: 19.}

The most significant of them are the Fair Trading Act, 1973, the Competition Act, 1980 and the Consumer Protection Act, 1987. The Consumer Protection Act, of 1987 is a wide ranging piece of legislation, creating both civil and criminal liability. The philosophy of the Act is that the best form of consumer protection is to promote competition.\footnote{Werner F. Menski. “Consumer Protection in India and Britain” in Consumer Confrontation. May-June 1989: 48-53.} Supply of unsafe goods or misleading consumers about the price is an unfair competition. Fair competition will not be achieved if consumers are given false or misleading information on which to base the decisions that they make in the market place. Thus, if competition is to work effectively in practice, the consumers must have sufficient information for them to make effective choices.
practice, the consumers must have sufficient information for them to make effective choices.

In the same way, right from 1957 there was consumer's revolution in Denmark, Switzerland, Japan, Kenya, France, Hungary, Italy, Canada and Belgium. "Press campaign in favour of the consumer in these countries played a significant role in the creation of the concept of consumerism." In context to the Asian countries, it was Japan who demonstrated how consumer revolution can take place along with rapid economic development and the emergence of a mass consumption society. Although Japanese Consumers Association was founded in 1948 in Tokyo, yet it was only in 1968 that after a series of administrative and legislative measures, the basic law for the protection of consumer was framed.

In Japan, consumer protection is not confined to the national government alone. It is the responsibility of all the municipalities and other local governments too. However, consumer organisations in Japan differ considerably from other countries. Firstly, it is extensive and well organised, particularly in consumer boycott activity and secondly, it is largely made up of women—"500 housewives" groups called Shufureh. Though its quarterly

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*Since 1987, there has been unprecedented effort in the Latin America and Caribbean governments have set up a National Board of Consumer Protection. Ecuador's existing National Consumer Board has been strengthened, while other lawmakers are considering measures to protect consumers. In Paris, an inter-ministerial commission has been formed to prepare new consumer protection legislation to parliament.

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. The force of consumerism was witnessed since 1930's in U.S.A, when there was an open resentment against business malpractices. A sudden interest in the fundamental rights of the consumer even in an economic state of relative affluence emerged by 1970,s. Today, the consumer is no longer a mere consumer interested in getting quality products for reasonable prices, but a powerful force acting even against managerial decisions on technologies having relevance to safe environment.

magazine, Shufureh keeps its members informed of policy decisions and also of manufacturers on its blacklist. Shufureh is active in product testing as well as in boycotts, which, in fact, remains its main work.

However, the fact much noted is that the development of a consumer protection policy now requires that measures be taken only at the national level. Since the world economy has become so interdependent, national consumer policies have now acquired international dimensions. This is, mostly, due to the international character of business encountered by consumers, often not exclusive to any one country. As a result, measures adopted to protect the consumers in one country can have implications for consumers in other countries too.

Besides, the initiative taken up by the individual national governments during the last two decades, many international organisations have also been active in the area of consumer protection. A large number of International Organisations have come up to watch the interest of consumers for instance Food and Agricultural Organisation, International Labour Organisation and United Nations International Child Emergency Fund. Apart from this, in 1960, the International Organisation of Consumers Union was set up with the central office at Hague in Holland. From the five* funding groups, it has now grown into more than 175 groups scattered through 60 countries.** The broad areas of work of the International Organisation of Consumers’ Union are to bring together various groups, support them and to promote co-operation among them. This is done

* U.S.A., Britain, Australia, Holland and Belgium (five funding group.)
**Two Regional Offices, One for Asia and the Pacific at Penang, Malaysia and the other for Latin America and the Caribbean at Montevideo, Uruguay, have been set up.
through education, information, protection, research and testing, to act as a clearing house and information centre; to represent consumer interests at International bodies like the United Nations. The five principles of consumer education delineated by the International Organisation of Consumer’ Union is:

1. Critical awareness.
2. Active Involvement
3. Social responsibility
4. Ecological responsibility, and
5. Solidarity, along with the Charter of Consumer Rights.

The United Nations General Assembly too laid down in 1985 guidelines not only to convey the consumer activists but adding its own as well.* The right to form consumer groups or organisations and recognition of the right of such organisations to be consulted and to have their views represented in the decision making process.\(^7\) It has solemnly asked governments to provide international and financial facilities including the setting up of appropriate public bodies, to develop, implement and monitor consumer protection policies.

**CONSUMER MOVEMENT IN INDIA.**

In India, consumerism is still in the early stages of development. There is no national body of consumers unlike the West where consumers have a strong United Forum. But the concept of consumerism, in India, was active even during ancient times. India has a tradition of bureaucracy and public service from ancient times. The goal of such bureaucracy was the

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welfare of society. The Nanda dynasty in ancient India had an administrative system in operation to look after the needs of the people that supported the empire. The Arthashastra of Kautilya details the precepts and practices of the Mauryan State where it was the duty of the superintendents to put the government products in the market under favourable conditions, and to supervise their sales at reasonable rates. Merchants who cheated or interfered generally with the normal functioning of market prices were open to heavy punishment. During the Mughal times also, a large bureaucracy was required to administer to the ever expanding frontiers of the empire wherein the primary emphasis of the services was to ensure among other things that goods and services were made available to the subject race at a certain level. It is to state that consumerism has always been their in India in one form or the other but to protect the interest of consumers through various legislative measures is relatively new. 

It is true that there is no national body of consumers unlike the West where consumers have a strong united Forum but in India too various voluntary bodies did exist in the different parts of the country. Prior to 1950, a Consumer Protection Council was established in Madras under the chairmanship of Rajagopalchari. After a decade or two, consumers groups started sprouting in various parts of India. Most of them dealt with local issues. In 1956, nine housewives and social workers joined together to form the Consumer Guidance Society of India, in Bombay. In 1971, the Indian Consumer Union was registered in New Delhi, with the aim of fighting against the spiralling

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price of essential consumer commodities. In 1979, the Consumer Education and Research Centre was formed in Ahmedabad. The objective of these voluntary organisations was to expose and exterminate malpractices in the market and to promote better business through the following methods:-

1. To bring ceaseless pressure on the government and local authorities to see that existing consumer legislation is and expeditiously enforced and the guilty adequately punished.

2. To take full advantage of the existing business agencies established by business for self-regulation and voluntary control.

3. To awaken and organise the consumer by fighting his apathy and make him conscious of his rights.

4. To enlighten the illiterate, the poor and the lower income groups to fight against adulteration, unfair prices, shortness of weights and measures.

5. To make consumers aware of their rights and responsibilities, black marketing only encourages the traders to indulge in profiteering and adulteration, for which self-restraint by the consumer was essential. To recognize, practice and promote ethical standards in all spheres of life.

6. To recognize the dignity and value of all useful occupation as opportunities to serve.

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7. To develop knowledge and understanding of the needs, problems and opportunities in the community and worldwide.

8. To provide opportunities for personal and group activities to serve the community and promote understanding and good will.

9. To impress upon each individual the ideals of good citizenship.

There is no denying the fact that until today, about 500 consumer voluntary organisations have cropped up to protect the interest of consumers but a mention of few voluntary organisations which have contributed much to the development of consumer movement are enumerated below:

**Consumer Guidance Society of India.**

The oldest and the pioneering institution to launch consumer movement in the country was Consumer Guidance Society of India which was established in 1966 by nine ordinary middle class housewives and some social workers. It has its branches spread over Hyderabad, Pune, Kottayam and Trichur. Its activities include:

a) Testing household products like masalas and foodgrains and testing of small appliances like Electric Irons, Stoves, Immersion Heaters, Pressure Cookers etc.

b) Investigates the complaints of the foreign buyers of Indian goods.

c) Creates awareness among the consumers with the magazine "Keemat" a monthly.

* For details see Annexure I.
d) Represent various official and non-official bodies and National and International Level.

**Consumer Education and Research Centre.**

It was established on March 23, 1978 with the effort of four eminent personalities.* Since then it is making strenuous efforts in solving the problems of consumers. This association started with a small amount of money to be used only on Consumer Welfare and today it is spending in lakhs. It has also established a library for the use of consumers. The Centre is successful in dealing with a number of complaints like short weights, death claims of widows by LIC. A magazine known as Consumer Confrontation is brought out by the Centre to educate the consumers.

**Consumer Forum, Chandigarh.**

It was formed on July 12, 1979 with voluntary contribution from the eleven founder members. It is now a registered body and has been functioning as a private voluntary non-profit making and a non-political organisation for the welfare of the citizens, particularly the weaker sections of society. The main objectives of this organisation are to:-

1. Inform, educate and organize the consumer to preserve their rights.
2. Extend cooperation to the administration and governmental agency to:
   (a) Supply adequate quantities of essential commodities.
   (b) Ensure quality and fare price of standardized consumer goods.

* Manubhai Shah, Ramesh Bhatt, K.G.Munshi and A.C.Bhatt,
(c) Control malpractice of under-weighing, selling sub-standard quality goods, adulteration and hoarding.

(d) Implement fair pricing of consumer goods and services.

3. Seek effective functioning of government distribution system and servicing agencies such as Super Bazaars, Fair Price Shops, Cooperative Stores etc.

4. Ensure that wholesalers and retailers charge fair prices, sell quality goods, weigh correctly and supply unadulterated goods.

5. Apprise consumers of the prevailing market price of essential goods. To bring honest trade dealers to the notice of consumers.

6. Arrange supply of essential commodities from farmers and other producers through voluntary agencies and distribution centres at fair rates.

7. Assist government and public service agencies to function efficiently and with integrity.

Activities

At the initial stages, complaints of the public regarding utility services were looked after by the Administration. However, in the present state with the help of administration are dealt by the forum to the satisfaction of the public. The complaints include malpractice in the Public Distribution System, basic needs of the people and amenities. It was also helpful in getting food allocation raised, setting of Relay Station at Kasauli, desilting of Sukhna lake. Complaints regarding consumer products, LIC, Housing Boards, Shares, Garments, Banking etc. are also received and solved by the Complaints Committee set up by them. On an average about 150 complaints are dealt with under Alternate
Redressal of Complaints, out of court by negotiation and contacts with both parties. Moreover, no fees is charged from them. It has also stressed on the need for formulation of ‘Citizens Charter’ by all the departments of government dealing with public services*. Thus, government officials must realise that they exist for service to the people. People pay all the public services, directly or indirectly through taxes and therefore the consumers have every right to expect high quality of service responsive to their needs. Except for projects concerning the security of the country, there should be no secrecy about the rules and procedures, cost structure and targets to be achieved within the set time frame. All lapses on the part of individuals or organisations should be severely and firmly dealt with. At present the system for fixing responsibility is far from satisfactory. The citizens should be entitled to a good explanation, an apology and suitable redress. There should be well published and readily available complaints procedures. The citizens should not be made to run from pillar to post to get his grievances redressed.

* Citizen’s Charter can help in moulding the services as per people’s needs and to evaluate them, with people’s participation. Citizen’s themselves decide the services which they need, design and manage the economics of delivering services, and evaluating them. The model for Citizen’s Charter adopted by Government of India : a) the charter arises from the dissatisfaction of the citizen/ consumer/ customer with the quality of service that government offers b) the charter must be simple c) the charter must be framed by senior experts through interaction with consumer/ client associations d) merely announcing the charter will not change the system, therefore, conditions will have to be created through interaction and training for generating a responsive climate e) statement of the services offered f) place against each service the entitlement of the users, standard of services rendered and remedies available to the users g) procedures/ cost/ charges should be made available h) indicating clearly that while these are not justiciable, the commitments enshrined in the charter are in the nature of a promise to be fulfilled i) framing of a situation for obtaining feedback and performance audit and fixing a schedule for reviewing the charter every six months j) framing of separate charters for distinct services and for organisations/ agencies attached or subordinate to the Ministry/ Department.
Karnataka Consumer Service Society.

Bangalore has been doing useful work in consumer education through schools and mass media like radio, cinema and television. It works to achieve the following aims and objectives to:

a) Work for the protection of human rights and civil liberties.

b) Work for the promotion and protection of the interest of consumers.

c) Recognize the dignity and value of all useful occupations as opportunities to serve.

d) Recognize, practice and promote ethical standards in all spheres of life.

e) Provide opportunities for personal and group activities to serve the community and promote understanding and goodwill.

f) Impress upon each individual the ideals of good citizenship.

g) Take any lawful action for the fulfillment of these objectives.

Voluntary Organisation in Interest of Consumer Education.

It has been educating consumers about spurious and adulterated goods through posters, exhibition and literature. The Voluntary Organisation in Interest of Consumer Education has its roots in Delhi University where students and teachers floated the organisation during the beginning of the year 1983-84. Three years later it was registered. Its representatives are on various official committees like the Central Committee.

on Food Standards, Electronics Test Lab Advisory Committee etc. It also
organises seminars and workshops to educate the public about consumer
rights. Affiliated to the International Organisation of Consumer Union, in
Hague, it interacts with national and international consumer organisations to
spread the message of how to be an aware consumer.

Other Agencies

These include Women's Organisations like Saheli in New Delhi,
Stri Shakti Sanghatana in Hyderabad and Common Cause publish the
grievances of public on various matters. A plethora of articles on the
rights and difficulties of consumers are published in the various
newspapers like The Tribune and Chandigarh Newsline and seminars
are organized in various parts of the country to enlighten the consumers
and create awareness among them. These voluntary organisations make
use of various techniques, which are:

Education

In the Western Countries, consumer education is incorporated in
School Syllabi. In India, consumer education is being imparted by the
voluntary organisations. The consumer needs to be educated about their
rights and responsibilities and hold training programmes, workshops,
seminars, talks by experts on subjects of consumer interests.14

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Use of Media

Consumer activity can make use of media in many ways. They can write letters to the editor on consumer issues to be published in newspapers. Articles and features dealing with consumer issues and problems can be written and published in newspapers and magazines.

Research

Problem oriented research is an important task in the hands of consumer organisations. The information collected from research must be published to educate the public. This in turn will help regulate industry and government. An independent product-testing laboratory run by consumer groups would enable such groups to test consumer goods for their safety.

Litigation

Litigation is resorted to only after all other methods fail, because it is expensive and time consuming. Today many lawyers are prepared to take up consumer issues on a voluntary basis.

Agitation

This is also used as a last resort. But care is always taken to keep the agitation peaceful so as not to lose public sympathy.

Thus, from the preceding discussion it is quite evident that the voluntary movement all over the world including India have unfolded new vistas of protection policy. Before independence the government did not
provide much for consumer welfare. Its activities and the policies were made to effect industrialization. The government felt that consumer protection could serve as the basis for a self-reliant development of the country. Therefore, it was considered necessary to examine the entire field of consumerism which may be capable of making effective contribution to all aspects of national life. Consumer protection was viewed as a crucial input into various sectors of economy and an instrument of social transformation. Illiteracy and large size of population were the basic reasons which created problems in organizing the consumers. The National Government recognized these fundamental problems and it was in this context that legislation was initiated to protect the interests of the consumers.  

Historically speaking, until the 1930's, the traditional rights of buyers were:

1. Not to buy product that was offered.
2. To expect the product to turn out to be essentially as requested by the seller, and

* With a view to strengthen the voluntary Consumer Organisations, financial assistance under Consumer Welfare Fund Scheme was initiated by the State Governments. Consumer Welfare Fund was created at State level on the lines of Centre and the Centre would provide the necessary funding. Standing Committee constituted under the Consumer Welfare Fund considers cases for financial assistance only on the recommendation of the State Governments. For the purpose of recommending the cases, the states have been advised to set up Steering Committees consisting of the Secretary in charge of Consumer Affairs of the State Government as its Chairman along with the members of Central Consumer Protection Council, the State Consumer Protection Council, Consumer Organisations etc of the state. The State Governments are free to create a financial assistance scheme on the lines of the Centre. However, no budgeting support has been provided by the Centre for financing such schemes.

**Most of the voluntary agencies are without any resources and as such their contribution to consumer movement has been insignificant. The grassroot organisations are very much lacking. Some of the large organisations lack popular base and are deficient in democratic and decentralized decision making. There is need of an apex consumer organisation which would help in coordinating activities of voluntary consumer organisations.

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3. To expect the product that was offered to be safe and merchantable.

The seller had the right to:-

1. Introduce any product in any size and style he wished into the market, so long as it was not-hazardous to personal health or safety, or if it was so, to introduce it with proper warnings and controls.

2. Price the product at any level he wished, provided there was no discrimination among similar classes of buyers.

3. Spend any amount of money he wished to promote the sale of the product, so long as it was not deemed to be unfair competition.

4. Formulate any message he liked about the product provided it was not misleading or dishonest in content or execution; and

5. Introduce any buying incentive scheme he liked.

It is obvious that the law then was more for safeguarding the rights of the seller than the buyer. However, in the modern context, the rights of the consumer are much better defined than what they were decades ago. These are:

1. To get the right quality goods and services at the right price and at the right time.

2. The right to safety, to get products and services that are not injurious to his health or well being.

3. The right to choose from a sufficient number of alternatives to ensure competitive price and quality.

4. The right to be fully informed of the product or service.
5. The right to be heard, the right by which the views of the consumer get adequate attention and consideration by all concerned in making available the products and services.

6. The right to redress, a right that ensures that his complaints or grievances are heard and properly handled.\textsuperscript{16}

These consumer rights have a special significance in India. India as a signatory to United Nations Charter also made some gestures in this direction.

**Need For Consumer Legislation**

Consumers' prime concern is not only the fast rising prices and the absence of price control. There are many matters of equal importance such as quality of goods that they are induced to purchase, correctness of the measure and the availability of goods for purchase.

Today it is the sellers' market for consumer goods and not the buyers' market. Many items of consumer goods like edible oil, sugar, kerosene and cooking gas are in short supply though quite often artificial and manipulated. When goods are not available and the consumer has to stand in queues for hours to get what he wants there is little scope for complaint by him about quality and measures.

The new scientific and technological advancement in hundreds and thousands of variety of consumer goods has now made the market more complex. The products are marked in a number of ways that it is often difficult for the consumer to judge their quality.

adequately. The advertisements regarding the taste, flavour, style, quality standards of the commodities and services of their products by the manufacturers and dealers always allure the consumer to purchase and use when consumers had cause to complain about the product or service. They are advised to wait and see by dealers or they are left to purchase the better ones. The consumer does not get remedy to his previous grievances.

Consumers must be protected against sellers whose interests are not identical. Desire for profit in many cases leads unnecessarily to high prices, to poor quality and sometimes to misrepresentation and fraud. Consumers are typically weak in bargaining position because of the disparity in knowledge and resources between the parties which narrow the consumers access to a remedy.

Moreover, most of the consumers are ignorant of their legal rights against the remedies available to them. Most of the times, the consumers are either unwilling or unable to pursue a complaint against the traders. However, there is no doubt that competition for quality works to the benefit of the consumer, but simultaneously traders get a good margin of profit from the competitive goods.

Sometimes due to fraud or negligence on the part of the manufacturers or dealers, consumers get hazardous consuming articles from the retailer and become an easy prey to a number of diseases that may prove fatal to their health or lives. In many such cases, people know very little about their socio-legal rights against the offences.
The major hindrance of consumer protection is that the consumer is unorganised. Therefore, he is apt to be tempted by subtle techniques of the businessmen. Consumer needs to be protected and made aware of his rights.\textsuperscript{17} However, no study is complete on consumer legislation unless we possess the knowledge of situation and environment under which the consumer, state and the law are placed.

CONSUMER, STATE AND LAW

The judiciary plays a major role in public law matters be it law courts or its extended hand the quasi-judicial agencies. The courts are one of several available devices through which remedies are obtained against the state and its agencies, and through which forms of accountabilities is achieved. At the optimum level, courts are viewed as a quality control mechanism over politicians, bureaucrats etc. yet the role of courts in reality is largely \textit{ex post facto} one. The aid of courts arrive invariably on the scene after events have taken place. It would be idle to deny the importance of the presence of institutions such as courts to put right what appears to have gone wrong.

Commentators of various schools of thought have observed the narrow impact of lawyers, legal skills and techniques. Hence, the services have been neither welcomed nor encouraged outside traditional legal forums. The values and techniques which lawyers supposedly espouse are seen as belonging exclusively to those

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\textsuperscript{17} P. Birkinshaw. \textit{Grievances, Remedies and the State}. Sweet and Maxwell. London. 1985: 2.
\end{footnotesize}
forums. It has been very persuasively pointed out that the current political and legal forms are still deeply embedded in nineteenth century liberal-democratic constitutional theory.\textsuperscript{18} Central to that theory was a firm belief, in varying forms, in the separation of powers of government, the separation of the state from any sectional interest in society and the existence of all institutions, private and public, as well as individuals under the autonomous rule of law.

The state-the \textit{loci} of official power and authority was enjoined to intervene on "private" relationships to counter the excesses of its own neutrality in, for instance, commercial and social welfare is a well-documented development. Just as important for our present purposes was the emergence of a kind of law which in its most developed form viewed people and institutions as possessors of abstract rights and duties to be freely exchanged in a market regulated by nothing save the invisible hand of optimum resource allocation. Law was emphasised as being an independent and autonomous method for dealing with disputes between abstract and equal individuals. It operated within institutions immediately recognisable as legal, i.e. courts of law, and which possessed the same degree of independence and autonomy in their operation as did the method of law when employed for dispute settlement. Law was about rules which could be applied in a value-free manner and without any necessity to advert to the values inherent in the rules.

The government and the law have made no formal distinction between the public and private law. The result was a blurring of the distinction between the public and private realms. Such a blurring facilitated the well-known features of the government hiding behind a liability which bestow special immunities and privileges upon the state. The role of the state as regulator, entrepreneur, provider and adjudicator was not accompanied by the creation of any specific legal liability expressing as its concern the redress of problems posed by such myriad and ever contradictory roles.

The common view of law is the adjudication of disputes between individuals but in reality law is the medium through which the state organises and regulates activities collectively, i.e. where primary reference is to the overall impact and utility of state policies as opposed to specific individual impact. Law or legislation, has been the device through which a whole corpus of state activities has been created. A vast array of public bodies have been established covering all aspects of administration from executive decision-making, adjudicatory functions, resource allocation, etc. Yet little has been contributed by the legal techniques in the making of the government. It is opined that there are five basic techniques* of law that a society might use which transcend the adjudication of collisions between individuals. It is observed that on the one hand lawyers would introduce excessive formation or legalism in the quasi-judicial agencies administering the supplementary benefit-system accountability where broad discretionary decision making is involved.

* The five basic techniques are the grievance remedial, the penal, the administrative-regulatory, the public benefit conferred and the private arranging techniques.
On the other hand, public administration certainly does not support the belief that politicians and bureaucrats, left to themselves, will devise procedures, or decision making processes which will ensure fairness on interest representation, fairness on procedure, accessibility for interested members of the public or accountability where broad discretionary decision making is involved.

There is much criticism of the present state of affairs though it is difficult to gauge its volume or its weight. The lawyers lead the attack. Their argument runs on the basis that where there is a dispute between the executive and a citizen over the rights of the citizen, and the power to give a decision has been given to a minister, the principles of natural justice should prevail. The Minister is virtually free to ignore those principles and very often does so. Therefore, the present procedures are bad. To the lawyers that chain of argument seems so obvious that they proceed at once to put forward the remedy. Broadly speaking, proposals of lawyers fall into three groups.19

a) Some lawyers say that we should take these things out of the hands of Ministers altogether. The planning disputes should be decided by "a tribunal that is both independent and impartial."

b) Another view is that there should be far wider scope for judicial review. There is general agreement that the law courts must be able to decide whether the executive act is within its power and whether the principles of natural justice have been observed. According to some lawyers, judicial review ought to go much further. It ought to let

a court decide whether there was substantial evidence on which the decision could be based, and whether the minister proceeded on an erroneous basis or by reference to inadmissible consideration. At its strongest, the argument is that the citizen is helpless before a government department and therefore a citizen should be able to arraign the employees responsible and bring them to account before some high quasi-judicial agency. It is not clear whether the aim of recent proposals for a High Court Judge sitting with assessors, is to give us a court able to decide policy questions or simply to review the way in which a decision has been made.

c) Others think that amendment should be made in the procedure.

The stock answer to the lawyer's complaint about the executive exercising these powers is that policy decision ought to go to minister and that the court should not overhaul the policy. That is an inadequate answer, because a policy can be had about nearly anything the lawyers get into a tangle by talking about “dispute,” “judicial” and “quasi-judicial,” and that people who see that lawyers' categories merely lead astray. Counter to that offence by producing categories of “executive” or “administrative” or “policy” creating confusion.

The doctrine of ministerial responsibility is something much more than a liability to answer question in Parliament, it involves the pooling of ministers' powers. In law a power may be given to the Executive to exercise by Order of Legislature, or by giving it to a particular minister. Our ministerial system works on the supposition that all ministers are a team and all powers are at the disposal of the
government, co-ordinate ultimately by the Cabinet. No single minister can exercise his power in disregard of the other ministers. The outside world does not know if it is settled by a civil servant without reference to his minister or whether it soared up to ministerial level and reached the Cabinet. In view of the above discussion, the next chapter has been devoted to policy perceptive and legislative measures to protect the interest of varied consumers.