CHAPTER II

DEVELOPMENT OF CONSUMER MOVEMENT
THE INTERNATIONAL PERSPECTIVE
"We can learn from history how past generations thought and acted, how they responded to the demands of their time and how they solved their problems. We can learn by analogy, not by example, for our circumstances will always be different than theirs were. The main thing history can teach us is that human actions have consequences and that certain choices, once made, cannot be undone. They foreclose the possibility of making other choices and thus they determine future events".

Gerda Lerner

This chapter emphasizes the development of consumer movement abroad and in India. For the purpose of convenience this chapter is divided into two parts. Part I mainly deals with consumer development in United States of America, United Kingdom, and in other countries. Whereas Part II deals with development of consumer movement at international level through EEC and various other international organizations established to protect the interest of consumer. This chapter also highlights the concept of consumerism and its scope in the present society.

2.1 INTRODUCTION

Consumer is the main component of the economic cycle of each and every country because all other developmental activities are centered on him. In a competitive economy, it is the consumer who decides the success or failure of business either by buying or rejecting the product. The ultimate purpose of all the economic activity is to satisfy the consumer.


The economy of every nation depends on the consumer’s ability to respond to the changes in the market place. The consumer exercises economic vote for everything he buys. This vote, in the present competitive economic system means life and death for the producer\(^3\). Most of the time consumer is a victim at the hands of producer. The producers always try to strengthen their position through modern market techniques.

Consumers are the largest economic group in each and every country. Most of the consumers are incapable of raising their feeble voice due to various reasons. The interest of the consumer in the present market place is distant and diffused, because of stiff inaction and inattention on the part of the powers. This leads to a conflict between the consumer and the producer that has resulted in to consumerism

Adam Smith, a well-known economist in his book *The Wealth of Nations* describes market place as a pillar of strength of the consumer\(^4\). Market is the place where the buyer and seller have personal encounter. Consumer is a victim of many unfair and unethical tactics adopted at the market place in the present socio economic scenario. He is incapable to assess the quality and quantity of goods and services provided by businessman in an organized manner\(^5\). Consumer who plays an important role in the market place is a victim, at the hands of seller or businessman.

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\(^3\) Schoenfield David & Arthur. A Natella, *The Consumer and his Dollar*, (195) at 1
\(^5\) Agarwal. V.K., *Consumer Protection (Law and practice)*, (BLH Publishers & Distributors. Ltd, New Delhi, 1992) at 1
The idea of consumer movement began with the development of Industrial revolution. The needs of the human beings were very few before the revolution, which were met through the exchange of goods or barter system. As the population increased, the demand increased, leading to industrial revolution, ushering in radical changes in the consumption pattern.

Industrial revolution has been responsible for proliferation of human needs in respect of goods and services. With industrialization consumer goods flooded the market, and the entrepreneurs and traders to sell these goods in the market place have used all kinds of unethical methods. Modern life made it compulsory on human beings to depend upon the industrial products. Industrialization has made our life easy\(^6\).

Industrial revolution has brought various changes in the market world, with the development of new technology different products and services have been provided to the public. Due to the lack of understanding, illiteracy, etc, people are not aware about the quality of such goods or services. At this stage steps in the concept was 'Caveat Emptor' that is 'let the buyer be ware'. This has led to encounters between the buyers and the sellers. The concepts of laissez faire, laws of demand and supply, have slightly disintegrated. No protection was available to the consumer in the market. Market became a place of exploitation and the consumer's plight was in the hands of the seller. Consumer was availing goods and services at his own risks no liability was imposed on the seller.

\(^6\) Saraf D.N, *Law of Consumer Protection in India*, (NM Tripathi P.Ltd, Bombay, 2nd Ed. 1995) at 1
During the 20th century there has been a rapid increase in the supply of consumer goods and services. The development of modern technology, new methods of sale\textsuperscript{7} and services made it difficult for the consumer to bare a valid choice on his own, unaided experience and judgment. The gap between the seller and consumer has widened. Marketers have taken undue advantage of consumer ignorance and helplessness. They adopted various techniques to meet their selfish ends. They have made the consumer a target of their unscrupulous practices. Consumers do not get adequate response from the producer to settle their grievances. As a result consumers have become victim of various types\textsuperscript{8} of exploitation\textsuperscript{9}.

The need to protect the consumer from exploitation in the market place, finally led to a social movement called ‘Consumerism’ or ‘Consumer movement’, seeking to enhance the economic well being and political power of the consumers.

2.2 CONCEPT OF CONSUMERISM AND ITS SCOPE

The emergence of ‘consumerism’ is directly related to the change in the market concept. Consumerism is not a novel idea as many of us think. Consumerism is the name given to consumer protection movement. Consumerism like most ‘ism’ varied in definition depending on who is defining

\textsuperscript{7} Such as advertisements, super market, self service centre, pre parking and shopping mall etc.,

\textsuperscript{8} Such as spurious drugs, adulteration, misuse of colouring matter, short weights and measures, abuse of monopoly position, dubious hire purchase plans, high price of products, poor quality, non standard goods, poor pre and post paid service, sale gimmicks, deceptive advertisements, hoarding, black marketing, illegal trading, hazardous products, product break down, costly spare parts and repairs etc.,

\textsuperscript{9} Sharma Chandrakant, \textit{Role of Consumer Organizations in Consumer Protection}, (Kanishka Publishers, New Delhi, 1995) at. 1
the term. Consumerism is a kind of people’s movement. It is not a political movement but it is the movement of people’s living. The monopoly of big enterprises gave a sense of solidarity among consumer class, making business a target of consumerism.

Consumerism has emerged as a movement to the forefront as a result of the consumers dealing with the seller.

In this competitive age, people are demanding more and more recognition of their interest and satisfaction for the products purchased in the market place. While looking for an alternative remedy to protect the interest of the people against the producer, ‘consumerism’ came into picture.

Consumerism is considered as a “20th century citizen’s revolt against the unresponsiveness of both the public and private institutions to human needs and satisfaction”

Consumerism involves the action of individuals and organizations, in response to consumer’s dissatisfaction arising from exchange relationship. In this respect consumerism is an attempt to preserve the free enterprise economy by making the market work better. It is a process through which the consumers seek redress, restitution and remedy for their dissatisfaction and frustration with the help of their organized or unorganized efforts and activities. Infact, it is a social

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10 Ralph M. Galdeke and Warren, E. Etch son, Consumerism view points from Business, Government and Public interest, (Ed. 1972) at 3
movement seeking to protect and augment the rights of the consumer in relation to the producer\textsuperscript{12}.

The term consumerism is a convenient word for the sum total of consumer consciousness, awareness of his rights, annoyance with rising prices, with occasional irritation at the gap between poor performance and over promise, disillusionment with certain imbalances in the market place, dissatisfaction with the business practices\textsuperscript{13}. It is directly related to the objectives of fulfilling the minimum needs of consumers in terms of necessity, quality, purity and prompt service.

First let us examine some of the definitions incorporated in the dictionary and specified concept regarding consumerism as provided by various other experts in this filed dealing with consumers.

According to \textit{McMillan Dictionary}\textsuperscript{14} consumerism is concerned with protecting consumers from all organizations with which there is an exchange relationship. It deals with all activities that are linked with government business, independent organizations and concerted consumers that are designed to protect the rights of the consumer.

Consumerism is a movement or a set of policies aimed at regulating the products or services, methods and standards of manufacturers, sellers and

\textsuperscript{12} Joshi Navin Chandra, “Creating Consumerism” \textit{Financial Express}, Ahmadabad (21\textsuperscript{st} December 1989)

\textsuperscript{13} Jag Parvesh Chandra, “Consumer want their money’s worth”, \textit{Financial Express}, Ahmadabad (11\textsuperscript{th} February 1991)

\textsuperscript{14} Macmillan, \textit{Dictionary of Marketing and Advertising}, (Michel J. Baker, 1985) at 52
advertisers in the interest of the buyers. Such regulation may be institutional, statutory or embodied in a voluntary code accepted by an industry, or it may result more indirectly from the influence of consumer organizations.\(^{15}\)

There is no single accepted definition of consumerism. A variety of definitions exist focusing on different aspects. The definition of consumerism varies from person to person. Attempt has been made to examine various definitions by putting them under two main groups\(^{16}\). The first one is traditional group of definition, and the second is the modern group of definition.

**Traditional group** of definition consists of definitions which restrict the meaning of consumerism mainly to deals with welfare of individuals and achievement of rights of consumer through regulation.

According to L. Barder et al\(^ {17} \) ‘consumerism’ is a collective action of consumers to secure protection from commercial terrorism.

K. Dameron\(^ {18} \) defines consumerism as ‘the attitude and activities of consumers to secure a balance of strength between them and products’.

According to Richard H. Buskirk et al\(^ {19} \) consumerism

As an organized effort of consumers seeking redress, restitution and remedy for dissatisfaction they have accumulated in the acquisition of

\(^{15}\) *The New Encyclopedia Britannica*, (Vol. 3, 15\(^{th}\) ed, 1990)

\(^{16}\) Supra note. 8 at 8

\(^{17}\) Barder L and Warnette JP, “Consumer Movement”, *Journal of Marketing*, New York, (1938) at 3


\(^{19}\) Richard H. Buskirk and James T. Rothe, “Consumerism an interpretation” Vol. 34, *Journal of Marketing*, (October 1970) at 63
their standard of living'. They are of the opinion that consumerism emerged as a result of abuse of the marketing concept rather than malfunction of it.

David W. Cravans and Hill\textsuperscript{20} describes consumerism ‘as a social force within the environment designed to aid and protect the consumer by exerting legal, moral and economic pressure on business’.

Stanton W J\textsuperscript{21} states that consumerism is ‘an organized reaction of consumers to have business unfair practices remedied’.

According to Shah A C\textsuperscript{22}, “Consumerism as an organized movement of consumers. It emerged as countervailing defensive force to safeguard the interest of consumers from the abuses of economically powerful seller”.

From the above definitions we can understand that the concept of ‘consumerism’ is

a) An organized effort on the part of consumers

b) It is a reaction against business class against their malpractices in the market place

c) To consider market interaction as the outcome of seller and buyer interaction

d) A need for adequate relief in case of any dissatisfaction, while using goods or hiring of services

\textsuperscript{20} David W. Cravens and Gerald & Hill, “Consumerism A perspective”, \textit{Business Horizon}, (August 1970) at 24


\textsuperscript{22} Shah AC, “Consumer Protection in India”, Mimeograph, Surat, Third Conference on Consumer Protection in India, (1976) at 1
e) Rectification of the defect in providing proper relief

f) To save the economic interest of consumers

g) Attempt to guarantee the rights of consumers

h) To concentrate the interest of consumer

Taking into account the present complex market a transaction spurring out of marketing malpractices, excessive emphasis is laid on individual satisfaction. In this regard certain new dimensions emerged to define the term consumerism. According to Modern definition the interest of consumer includes general interest, the initiative of government and other aspects. Various thinkers have understood consumerism as given below:

According to Kotler P23.

‘Consumerism is the social movement seeking to provide the rights and powers of the buyer in relation to sellers’.

To Kotler, consumerism becomes inevitable for the following reasons:

i. Increased income and educational levels that sensitized people to the value of the quality of life beyond these values of material gains,

ii. Increased complexities of technology and increased product complexity

iii. Increased complexity of marketing techniques, and

iv. Increased exploitation of the environment, diminishing scarce resources24

24 Sundaram I.S, Consumer Protection in India, (IBR Publishing Corporation, Delhi, 1985)
Cappett A John\textsuperscript{25} gave the behavior oriented definition to the term consumerism. He says

'Consumerism is a form of psychological projection engaged in by consumers who as a result of repeated failure to attain a desired lifestyle have accumulated negative attitude toward marketers in the form of criticism that seem to be socially acceptable to those who hear complaints'.

Mandana J\textsuperscript{26}, observes' ‘consumerism as a citizen’s activity towards fighting trade injustice and scrutinizing of public conscience’.

According to Fazal A,\textsuperscript{27} ‘consumerism is a phenomenon of group awakening ushered in a social movement to fight injustice and seek a fair deal in the exchange of process’.

According to Peter Drucker

‘Consumerism means that the consumer looks upon the manufacturer as somebody who is interested but who really doesn’t know what the consumer’s realities are. He regards the manufacturer as somebody who has not made the efforts to find out, who doesn’t understand the world in which the consumer lives, and who expects the consumer to be able to make distinctions which the consumer is neither willing nor able to make’\textsuperscript{28}.

\textsuperscript{25} Cappett A. John, ‘Consumerism from a Behavioural Perspective’, \textit{Business and Economic Review}, (Akron, 1974) at 23-28
\textsuperscript{26} Mandana J, \textit{Consumer Education}, (Brindavan Publishing House, Bangalore, 1977) at 32
\textsuperscript{27} Fazal A, “Striking out for the Consumer” \textit{Asia Week}, Peang, International Organization of Consumer Union, (March 1978) at 24
\textsuperscript{28} Drucker Peter, “Consumerism in Marketing”, Speech to the National Association of Manufacturers, New York,( April 1969)
He has taken into account four important premises of market concept to define the term consumerism. They are

a. Consumers know their needs,

b. Sellers are aware about their needs and knows exactly how to find them out,

c. Seller provides useful information about the product and

d. The product or services satisfy the expectations as well as the promises made by the seller.

Chaudhary H C\textsuperscript{29} gave his opinion that, ‘consumerism is a wide range of activities to protect individuals from business malpractices which infringe upon their rights as consumers and to put buyers on parity with the seller’.

The most common understanding definition of consumerism is with reference to the widening range of activities of government, business and independent organizations that are designed to protect individuals from market practices.

From the above definitions we can conclude the following important aspect provided in modern definitions:

a) It highlights the role of public and private concern

b) Consumerism is a social movement

c) Society needs protection along with the consumer satisfaction

\textsuperscript{29} Chaudhary HC, “What is Consumerism”, Vol. XVII, \textit{Indian Journal of Marketing}, (September, 1986) at 1
d) Consumer should be empowered with adequate means like legislation, representation in decision making and logistical support

e) Business should be regulated by its own self regulation mechanism

f) Creation of consumer awareness in market place

g) Resources of the country should be utilized to the optimum level

h) Protection of political, social and economic interest of consumer

All the above definitions make it clear that the meaning of consumerism has changed over the years. It is also clear that each definition has been given in certain context as per the prevailing condition at that time.

Consumerism is taking shape as a comprehensive campaign. It is a substantive movement of consumers, by consumer, for consumers. It has no political overtones, nor should it ever have them. Once the cult of consumerism gets going it would be beneficial not only to the consumer but, to the producers as well. Protecting the interest of consumer means making the weak strong and the strong just. Well satisfied consumers are a great encouragement to the production activity and its planning for future\(^\text{30}\).

Now a day certain new concepts relating to consumerism have emerged\(^\text{31}\). New movement has added certain sociological aspects. It is aimed at improving health services, utilities, safety, consumer representation, purity, trust and social issues. The ultimate aim of consumer movement is the monitoring of

\(^{30}\) Supra note. 11

\(^{31}\) Such as paper consumerism, cooperative consumerism, reverse consumerism and green consumerism.
exchange system to improve the quality of life of individual and the public at large\textsuperscript{32}.

In the present scenario the following factors are responsible for the emergence of consumerism\textsuperscript{33}:

i. Information gap,

ii. Performance gap,

iii. Role of impersonal and unresponsive institutions,

iv. Budget squeeze,

v. Ghetto consumers,

vi. Different views of the market place,

vii. Ever increasing complexity of legislative controls and goods,

viii. Altered patterns of communication,

ix. Need for informed participation,

x. Fundamental innovations and problems of development

New issues have emerged because of technological developments and higher standards of life, increased needs and transactions. Earlier, the consumer was able and competent to make his buying decisions with relatives, friends and other members of the society. Now the products demanded and required by the consumers have grown enormously in quantity, quality and complexity. It is difficult for an ordinary man to keep pace with widening information about

\textsuperscript{32} \textit{Supra} note. 8 at 11
\textsuperscript{33} Verma S.K., \textit{A Treatise on Consumer Protection Laws}, (ILI, New Delhi, 2004) at 13 - 14
products and technical knowledge required. Moreover, new modes of marketing, like sky shopping, have also emerged, giving less opportunity to the consumer to examine the goods before buying. The consumers generally face time constraints and also lack necessary capacity and competence to select products in the increasing competitive market.

Consumerism is in fact a social movement seeking to protect the rights of consumers in relation to the producers of goods and providers of services. In today’s context consumerism is an all pervasive term meaning nothing more than people’s search for getting better value for their money.

Consumer is the focal point of any business. Consumer’s satisfaction will benefit not only business but government and society as well. So consumerism should not be considered as consumer’s war against business. It is a collective consciousness on the part of consumers, business, government and civil society to enhance consumer’s satisfaction and social welfare. This will benefit all, and finally makes the society a better place to live in.34

To protect the interest of consumers and to recognize their rights the idea of consumerism emerged into a movement known as consumer movement. The development of consumer movement is discussed in this chapter under two different heads, they are development of consumer movement in USA, UK and in other countries. Further the researcher discussed about development of consumer movement through EEC and various international voluntary

34 Singh SS, Sapna Chadah, Consumer Protection in India: Some Reflections, (Indian Institute of Public Administration, New Delhi) at 6
organizations. Consumer protection is not new concept in India. This protection was available to the consumers from time immemorial. The ancient scripts like Vedas mentioned the protection available to the poor and deserved consumers. Historically this concept has its roots in ancient Indian jurisprudence. Development of consumer protection at length, in India is highlighted in the next chapter.

**PART I**

**2.3 CONSUMER MOVEMENT IN USA, UK AND OTHER COUNTRIES**

Consumer movement emerged to avoid exploitation of consumer in the market place. Today numbers of countries all over the world have laws to regulate and control unfair and deceptive trade practices and to provide adequate protection to the consumer. It is essential to verify the development concerned with consumer laws in the United States, United Kingdom and other countries from whose experience India has benefited in framing the consumer laws and policy for itself. The development of consumer movement under this part is divided into four categories. They are

1. Ancient Period,
2. Consumer Movement in United States of America, and
3. Consumer Movement in United Kingdom
4. Consumer Movement in other Countries
a. Consumer Movement in Australia

b. Consumer Movement in Japan

c. Consumer Movement in Poland

d. Consumer Movement in Sweden etc.

Consumer protection is not a new concept and has been evolving from time to time. Consumers have been victims in the market place and they have been exploited from time immemorial. They became helpless mainly after industrial revolution due to complexity of consumer product in market place. First let us examine the concept consumer protection during ancient period.

2.3.1 ANCIENT PERIOD

A close examination of ‘consumerism’ shows that the recent emphasis of ‘consumer protection’ is not revolutionary occurrence but it was evolutionary in its character. There is no society and there is no generation which did not face many of the problems faced by the consumer today. The only difference is that some problems have become complex, grown in intensity and assumed greater significance with passage of time. Every society has had its own control mechanism and sanction to provide protection to consumers. Even the earliest civilization was apprehended with problems.

This has been effectively stated by Anwar Fazal,

“The Hittites of Anatolia now in Turkey, a civilization 3,500 year ago had a consumer Code of sorts on food matters. The Code said ‘Thou shall not poison thy neighbor’s fal’ meaning ‘food should be safe and
wholesome'. The Code also said ‘Thou shall not bewitch thy neighbors fal’ meaning ‘you should not misled or cheat’. There is also a theory that the Roman Empire collapsed because of lead poisoning arising from the use of lead pipes for their water supply system. There are reports that bankers who cheated in the Middle Ages were put in cages and completely immersed in water and taken out when they were on the point of drowning.\footnote{Fazal Anwar, “Striking out for the Consumer,’ in Consumer Action in Developing Countries, IOCU (1980) at 7}

Laws aimed at the protection of consumers are not confined to modern times. Some prohibitions against adulterated food and false weights and measures are thousands of years old. Such laws are also found in the Old Testament, the Code of Hamurabi and the ancient Indian laws.\footnote{Reddy G.B, Law of Consumer Protection in India,(Gogia Law Agency, Hyderabad, 6th Ed. 2004) at 4}

Protecting the interest of consumer can be traced in Hammurabi’s Code. Hammurabi (1792 – 1750 BC) was recognized for a period of forty three years over Babylon. This is the first record which dates to four centuries earlier. It is the best preserved legal document giving an insight to the social structure during this rule. The laws were discovered in 1901.\footnote{Kakkar Avoantikar, A Perspective on product Liability Law and Consumer Safety, (Snow White Publication, P. Ltd, Mumbai, 2004) at 2} This Code tries to protect the interest of buyer. During this period they failed to give the names like consumer, consumerism and consumer movement. Some of the legal provisions in this Code read as follows:

“Any person who did not construct the house properly, and it fell, he shall re-erect the house from his own means.
If a builder builds a house for some one, even though he has not yet completed it, if then the walls seem toppling, the builder must make the walls solid from his own means\textsuperscript{38}.

The above provisions did not specifically use the term consumer and buyer, but indirectly they provide the same meaning and protect the interest of the consumer. This shows that consumer protection was recognized under the Hammurabi's Code.

During most of the middle ages, consumers were protected to some degree by the moral strictures of the Catholic Church, self regulations by craft guilds and consumer's own knowledge on products and local sellers. The laws did not favour the consumer neither did they favour the seller, there was essentially no law covering consumer transaction\textsuperscript{39}.

Gradually the European Kings over saw a shift in legal doctrine that favoured the sellers, in their efforts to encourage the growth of trade. The dominant rule of the market place became 'caveat emptor' or 'buyer be ware'. The supply and demand conditions that underlay the doctrine of caveat emptor and limited Government interventions on behalf of consumers changed rapidly in the later decades of the 19\textsuperscript{th} century\textsuperscript{40}.

The perils of crude cheating have been recognized for centuries. Duty was imposed on the government with regard to standardization of weights and measures in the market place. Attempts were made to enforce the use of honest

\textsuperscript{38} Id at 3

\textsuperscript{39} Preston Ivan L, The Great American Blow-Up, (University of Wisconsin Press, Madison, 1975)

\textsuperscript{40} Supra note. 35
weighing and measuring devices by law\textsuperscript{41}. Concern about abuses in market place is also an old concept. The tempo of change in the character of the market place has been greater in this century than during any comparable period in history.

Owing to industrialization, there was substantial change in the mode of manufacture, transportation and the market place. This has considerably affected the control by the consumer over the quality and prices of the goods and services offered to him. With the advent of sophisticated technology, mass consumption and production of a variety of goods offered for sale has increased to such extent that no person could be an expert in judging them. The poor consumer faces bewildering problem in evaluating the products. He is supposed to judge differences of technology, function, price and promotion. The mode of production has become so complex that it is very difficult to recognize merits and demerits in the products. The art of analyzing the quality or consumption goods had advanced to a stage of expertness which is inaccessible to an ordinary consumer.

All this lead to the exploitation of consumers by the business community by introducing new and subtle forms of deceit. The crudest forms of cheating are the use of short weights and measures, the adulteration of products and the misrepresentation of articles for sale. Advertisements and mass propaganda, has made the innocent buyer to purchase the products, which have ultimately proved to be not what he had expected to be. Monopoly of business is another

\textsuperscript{41} Mesopotamians (1750 BC) had laws on money lending, weight and measures, price control etc.
problem. It had long been recognized that the interests of the consumers are threatened when a substantial part of the production of an industry is under monopoly. Monopoly power can rapidly exploit the consumer by fixing prices so as to provide excessive profits. This can limit the consumer’s choice, it can reduce efficiency and it can hold up the development of new techniques because there may be little incentive for change\textsuperscript{42}.

This scenario has put the consumer in a helpless position. As products proliferate in the market, the gullible consumer is unable to match the market complexities. This resulted in the movement of protecting consumers through organizations.

After discussing the concept of consumer protection during ancient period it is worth to look at the development of the consumer movement in different countries where various consumer organizations have been established to create awareness among the consumers to protect their interest in the market place. United States is the first country to initiate the concept of consumer protection. Let us verify the development of consumer movement in USA.

\textsuperscript{42} Borrie Gordern & Aubrey, L. Diamond, \textit{The Consumer Society and the Law}, (Penguin Books.3\textsuperscript{rd} ed. 1973) at 287
2.3.2 DEVELOPMENT OF CONSUMER MOVEMENT IN UNITED STATES

The United States of America (USA) claims to be the most advanced country having various ‘Consumer Societies’ meant to protect the interest of consumer in the market. Even in the advanced country like USA, it has been proved that the consumer has not been protected properly till 1960’s.

The consumer movement in the USA is undergoing a change from time to time. It is becoming less fragmented and more pragmatic. Its wave had been primarily economic in 1930’s, but was largely social during 1960’s. Consumerism became a hot topic during the early and mid 1970’s. Different consumer protection legislations were passed during this period to protect the consumer as a result of public agitations and consumer organizations.

According to Mr. Michael Pertschnk- conceptually speaking the consumer movement was low by ‘the reaction and revolt of business’. Caveat emptor prevailed for a long time in USA from the end of civil war until the advent of 20th century. Action to protect the consumer has come lately and significant progress was achieved only during the past three decades or so43.

The growth of consumerism in USA can be better understood by briefly dividing the movement into three eras of consumer activism44. They are

1. Emergence of Consumer Movement

2. Second Era of Consumer Activism

3. The Contemporary Era of Consumer Activism and

4. Consumer Activism after 1960's

1. Emergence of Consumer Movement

The post civil war period saw the advent of large scale production of goods, sophisticated technology and process unfamiliar to the buyer. It was the age of production in a seller's market where all kinds of fraudulent, shoddy, adulterated and dangerous products were pumped. Development of consumer movement during this era can be traced before 1890. It was an outgrowth of the massive changes brought by the early stages of the industrial revolution.

The first organized consumer revolt in the United States occurred before the country was founded. Settlers in the 1760s fought to reverse imperial policies by boycotting imported goods. The colonists protested British taxes on stamps, glass, paint, paper and tea. Over a period of twelve years, many consumers gave up imported tea, liquor, ribbons, laces, and silks. These actions also induced long lasting preferences for American made products. Thus the American colonial era gave birth to the traditions of its consumer movement.

The United States has been leader in consumerism in the world since consumers first began to recognize, that they had rights in the market place. Perhaps this awareness dates back to the Boston Tea Party in 1773, in which

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American patriots boarded British ships and tossed incoming tea chests in protest of unfair taxes.\footnote{Virginia H. Knauer, “The Consumer’s Stake in Trade” Vol.7 (10), Consumer Confrontation, Ahmadabad (Oct, 1987) at 2}

During 1776, the people lived a highly individualistic life. They wanted freedom and independence and were extremely self reliant. They were basically self sustaining, cooperative, and giving. The welfare of consumers depended in part on the honesty and buying skills of both themselves and a few local shopkeepers. Retail stores consisted of itinerant peddlers, rural general stores, specialized city shops and auction sales. If the shopkeepers were smart enough to purchase good quality products, then consumers who bought from them at least had access to good products.

The range of products available to consumers was quite small, and "locally produced items accounted for the majority of the purchases"\footnote{Id at 217}. The products were generally simple in design and were in everyday use. Buyers were faced with few products that were not within their range of experience. Intelligent buyers, therefore, had the expertise to make a reasonable evaluation of most products. But most of the consumers were thrifty and frugal.

Most goods had no trademarks, and few had brand names. A wise consumer knew the merchandise and tried to avoid substandard products. However, consumers had almost no protection against merchants who raised prices
needlessly, and they could do little to stop frauds, such as misbranding and adulteration\textsuperscript{49}.

The 1870s witnessed introduction of first popular Coca Cola, Wrigley’s Chewing Gum, Boxes of Kellog Brothers, Corn Flakes and Chocolate Bars. There was optimal level of competition and there the need to regulate the competition. It was also necessary to take care of the safety and quality of the new goods. Many men in public life such as Supreme Court Justice Louis Brandeis, Wisconsin Senator and Governor Robert La Follete and President Theodore Roosevelt were engaged in regulating the competition. They represented consumer interest and were sympathetic to consumer wellbeing and were instrumental in organizing the progressive movement and reacting to the growing concentration of business power in both the market place and political arena\textsuperscript{50}.

Greatest scandals of food and drug products were witnessed in this era. Public pressure began to build for the regulation of the quality of these products. As a result a Federal Bill to regulate foods was introduced in the Senate in 1874. The Senate Committee was appointed to investigate into the food products and drug scandals. Their findings held that oil beef, pork were adulterated and many of the medicines contained opium derivatives. The public was greatly agitated over the issue of unsafe and harmful drugs\textsuperscript{51}. This initial consumer movement was an extension of other social movements like labour, cooperative

\textsuperscript{49} Garman Thomas E, Consumer Economic Issues in America, (Dama Pubn. Inc, Houslar, 1997) at.31
\textsuperscript{50} Mc. Craw, Thomas, Principles of Regulation, (Cambridge, Mass Harward University Press, 1984)
and women’s groups which provided the foundation for today’s consumer activities. The first Consumer’s League was formed in 1891. In 1899, the National Consumer League was founded to fight marketplace injustices, and soon branch offices were established in 20 states. During these years, Congress passed over 50 consumer protection laws\textsuperscript{52}.

In 1887, the Interstate Commerce Commission was established to regulate the railroad industry, setting the precedent for independent Regulatory Agencies and in 1894 the Federal Trade Commission was established to regulate products\textsuperscript{53}.

Emergence of consumer movement in USA was a part of a broader social movement. It heralded the formation of first Consumer League. However it lacked the kind of consumer consciousness that was to characterize latter periods of consumer protection. This era made the people to recognize their distinct political interest as consumers.

2. Second Era of Consumer Activism

The period after 1890 to 1930 marks the second era of consumer activism and it may be conceived as response to the broadening impact of industrial revolution. It goes beyond the factories and transportation systems, to the domain of consumption itself.

\textsuperscript{52} Supra note. 47 at. 31
\textsuperscript{53} Supra note. 35 at. 6
By the 1890s, the effects of a rapidly growing society changed the role of the consumer. Industrialization along with population growth brought 40 percent of the population to the cities. A nationwide system of railroads, served the economic needs of those who had moved into urban areas, where employment opportunities and local trolley transportation system flourished.

Despite the early precedents, the level of federal food and drug regulation was still inadequate and State Laws were often helpless to deal with the goods shipped between States. The rudimentary level of government control was matched by the primitive state of production techniques and products themselves. Ice was still the principal means of refrigeration, milk was not pasteurized and the cows were not tested for TB. Patent medicines contained Opium, morphine and alcohol. The labels did not indicate their contents. The efforts of the anti adulteration movement culminated. Further the Jungle Upton Sinclair’s novel about the stockyards published in 1906, brought demand for regulation of Food and Meat processing. All the above factors led to the passing of two Bills in 1906 — the Meat Inspection Act and The Food and Drugs Act\textsuperscript{54}.

During these years, a number of product-testing laboratories, some of which were run by department stores and trade associations, were established to provide buying information to the public. The Federal Bureau of Standards established a national system of weights and measures. At that time, trusts were combinations of firms that got together to reduce competition and control

\textsuperscript{54} Ibid
supplies and prices throughout a geographic area or industry. Trusts existed in fuel, sugar, whisky and matches. The battle against trusts established the Federal Trade Commission Act in 1914. This was one of the major legislation to deal with the interest of consumer protection\textsuperscript{55}.

Patriotic fever, wartime shortages and post war readjustments then diverted much attention from consumer problems. After the war, during the early 1920’s consumer incomes rose sharply. Mass production techniques were developed bringing consumers more and newer products such as automobiles, radios, telephones, introduction of electricity and movies\textsuperscript{56}.

Less than a decade after the First World War that is by 1925, 53.2 percent in United States of America had electricity\textsuperscript{57}. Every house hold was equipped with electricity had electric iron, washing machine, refrigerators, sewing machine and vacuum cleaner. Therefore when a consumer purchased any of these appliances, it was likely to be for the first time. So the purchase decision was complicated by both inexperience and technological complexity. In addition to the new products, consumer choices were further complicated by aggressive salesmanship, particularly in the form of advertising. Advertising suggested the importance of coordinating the styles and hues found in every relatively private room such as the bathroom, kitchen and bed room\textsuperscript{58}.

\textsuperscript{55} Supra note. 49 at32
\textsuperscript{56} Id at 31
\textsuperscript{57} USA, Census Bureau quoted in Merchand Roland, Advertising the American dream, (Berkeley, University of California Press, California, 1985)
\textsuperscript{58} “Your Money’s worth” by Stuart Chase and Frederick J. Schlink, 1927 in Supra note. 36 at 7
Advertising expenditure, which had been criticized as serving no useful purpose, quickly exceeded $3 billion annually. Buyers were confused by the growing array of products, and it is no wonder that such consumer outrage books, as *Counterfeit, Not to Be Broadcast*, 40,000,000 *Guinea Pig Children*, *The American Chamber of Horrors* and 100,000,000 *Guinea Pigs* became best sellers. These books illustrated dozens of instances of misbranding, mislabeling, and unsafe practices being committed by large, well-respected companies that injured or cheated consumers\(^{59}\).

In 1927, an economist, Stuart Chase and an engineer F.J. Schlink published a book *'Your Money’s Worth’*. In this book they mentioned about the activities of the National Bureau of Standards, and concluded that the Government was, indeed getting its money’s worth and that most consumers were not, mainly because they did not pay sufficient attention to the real values of goods they were buying. This gave rise to an association, the first of its kind, known as the “Consumer Research”. They also published a Consumer’s Research Magazine. It was from this association that a splinter group under the name of Consumer Union of the U.S. emerged in 1936\(^{60}\).

The above events, along with rising prices and an increasing torrent of advertising, all helped make the public aware of their interests as consumers as distinguished from their interests as workers or property owners. The establishment of consumers union constitutes one of the key events in the

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\(^{59}\) *Supra* note. 49 at 31 - 32

\(^{60}\) Festschrift in honour of Prof. Sathe S P., *Dimensions of Law*, (ILS, Pune, NM Tripathis P. Ltd, Bombay, 1992) at 7 -8
second era of consumerism in America. Thus 'consumer consciousness' developed during this period.

3. The Contemporary Era of Consumer Activism

A variety of circumstances brought on a renewed interest in consumer issues from 1929 through the 1960s. During this period public started migrating to the cities. Public attention was diverted due to World War II and about twenty years was to elapse before consumer protection again assumed the role of a major public issue. In this era till the decade of 1960s' the consumer protection activity did not start.

The first major issue during this era related to the drug industry. President Franklin D. Roosevelt appointed a Consumer Advisory Board and incorporated the issue of consumer protection in his 1933 message to the congress. But this proposal was delayed by the business community. After the tragic death of ninety three consumers in 1937 from taking a drug, provided the final impetus for the passage of The Food, Drug and Cosmetic Act, 1938. The new Act amended the Food and Drugs Act, 1906, expanding the jurisdiction of the Food and Drugs Administration (FDA) to include cosmetic and therapeutic devices. The other major piece of consumer protection legislation of this era was the Wheeler- Lea Amendment (1938) to the Federal Trade Commission Act. The
Amendment expanded the mandate of the FTC to include 'unfair as well as deceptive practices or promises in commerce'\textsuperscript{61}.

People's agitation regarding the safety of drugs paved the way for the Kefauver Harris Amendment (1962) to the Federal Food, Drugs and Cosmetic Act, 1938 to provide safety and effectiveness of all new drugs prior to marketing\textsuperscript{62}.

The postwar period of the late 1940s and into the 1950s saw strong economic growth and rising consumer incomes for our primarily blue collar society. During the 1950s, thousands took advantage of the educational opportunities offered to World War II veterans, which pushed them up the economic ladder and helped gradually transfer the US into a better educated and increasingly white collar society. Magazine circulation for the poplar buying information magazine Consumer Reports, published by Consumers Union, Inc, grew to almost half a million by 1950. The National Association of Consumers, a small consumer group, merged with the Council on Consumer Information\textsuperscript{63}.

During the 1950s, grass roots issues were not numerous, but the increased use of installment credit and the buying of new homes and durable products did provide some incentive for including consumer education courses in the schools. Schools increasingly began to teach students the hows and whys of buymanship until the Soviet Union sent up the first satellite, Sputnik, in 1957.

\textsuperscript{61} Supra note. 51
\textsuperscript{62} Supra note. 44 at 1-20
\textsuperscript{63} Supra note. 49 at 33
This event rapidly turned attention away from such life adjustment courses and the curriculum began to emphasize science and mathematics\(^6^4\).

There was increase in consumer prices owing to inflation between 1946 and 1956, it offered difficult choice to the consumers among the new and technologically complex products. For example two thirds of Americans had acquired their first television set by 1953. Similarly consumers encountered complicated new services offerings in the post war years, such as life insurance, installment credit. The first credit cards were introduced by the Diner’s Club. All these provided a kind of contentment with the American standard of living. It is not surprising that the opening salvos in the third era of consumer activism were aimed not at the goods people consumed but the method by which the products were promoted\(^6^5\).

In 1957, a book written by Vance Packard entitled ‘The Hidden Persuaders’ indicted the advertising industry for using psychological techniques to manipulate consumers. The attack on advertising was intensified in 1958 with the publication of John Kenneth Galbraith’s ‘The affluent Society’. This author was less concerned with the methods of advertising but more with its social effects. He contended that advertising played a key role in making the United States of America an ‘unbalanced society’ in which the pursuit of private goods

\(^6^4\) Ibid
\(^6^5\) Supra note. 36 at 8
overwhelmed the provisions of public rules such as schools, hospitals, and museums\textsuperscript{66}.

Some consumer issues still caught the headlines and during this era public was being manipulated mainly by the advertisers. Generally speaking, the relative economic prosperity of the 1950s, Senator Joseph Mc Carthy's campaign against so called communists, and the growing interest in space and national defense kept things rather quiet on the consumer front\textsuperscript{67}.

It was evident that during this era the jurisdiction of the FTC was extended over a wide range of harmful business practices, including dissipative advertising. The consumer activism was absent from the American scene until the 1960s primarily because consumers were relatively satisfied.

4. Consumer Activism after 1960's

The wave of consumerism was started in 1960's Americans were much more aware of the market place. Television made every consumer an expert, because for the first time in history people were constantly exposed to product claims. The decade of the 1960s saw the evolution of a new social movement, in which more economically informed Americans expressed dissatisfaction with the existing social, economic, and structural systems. This disharmony helped public to develop a greater social conscience, and they demanded social change. Americans turned their attention to social concerns, such as race relations, consumer problems, pollution cleanup, product safety and social

\textsuperscript{66} Ibid

\textsuperscript{67} Supra note. 49 at 33
justice. As these problems were not addressed by the government or traders, American consumers perceived this inattention as a violation of the public trust and demanded action.

People became more open to self-criticism regarding social and economic problems. Some of the best selling books were Rachel Carson’s *The Silent Spring* (1962 dealing with environment), Michael Harrington’s *The Other America* (1962 deals with poverty), Jessica Mitford’s *The American way of Death* (1963 regarding funerals), David Caplovitz’s *The Poor Pay More* (1963 dealing with poverty and credit), Maurine Neuberger’s *Smoke Screen: Tobacco and the Public Welfare* (1963, cigarettes), and Richard Harris *The Real Voice* (1964 deals with drug safety). The nation was becoming increasingly aware of its problems, and this ushered in the loosely organized era of activist consumerism, which lasted until the mid 1970s.

Every event served the purpose of initiating modern consumer movement in America. A finely tuned level of public interest in consumer protection in USA can be recognized in two ways

a. Public Response to Consumer Problem and

b. Ralph Nader’s Crusade

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68 *Id at 34
69 *Ibid*
a. Public Response to consumer problem

During these years, consumerism was a label put on the efforts of a growing number of consumer advocates who questioned the inadequacies of the marketplace and the unwillingness of business and government to deal with important consumer needs and demands.

Consumerism emerged because many people concluded that making money should not be the only objective of the capitalistic economic system. Many Americans began to question the logic of commitments to maximizing economic growth that were crucially important to earlier generations. People demanded justice and fair play in the marketplace, which represented a significant shift in the national value system. Americans began to realize that fulfilling the consumer interest, as suggested by Adam Smith in his 1776 book *The Wealth of Nations*, is the best means to enhance the wealth of the country.\(^{70}\)

The term consumer movement characterizes the organized activities of a loose coalition of groups of people working toward the achievement of a number of related goals which

a) Protect consumer rights - such as health and safety,

b) Help consumers gain power to control critical factors in their lives - competent choice making and appropriate redress, and

c) Limit marketplace abuses

\(^{70}\) *Supra* note. 49 at 34
People involved in the consumer movement come from several areas of the society, community, senior citizens, cooperatives, labour unions, foundations, academics, consumer information, consumer advocacy, and consumer affairs professionals in business and government.\textsuperscript{71}

The beginning of the consumer movement of the 1960s probably began with a boycott by a group of housewives in Denver, Colorado, who picketed local supermarkets protesting high prices. With nationwide publicity of this event and others, the consumer movement grew and began to make its strength felt in America. Numerous groups with an interest in consumer concern began to spring up.\textsuperscript{72}

In March 1962, John F. Kennedy presented the first Presidential message to Congress directed at consumer concerns. He asked for legislative action and new programs in several areas. The most important aspect of this message, however, was the now famous Consumer Bill of Rights. President Kennedy stated that consumers have four rights. They are

i. Right to safety,

ii. The right to be informed,

iii. The right to choose, and

iv. The right to be heard

\textsuperscript{71} \textit{Id} at 34 - 35
\textsuperscript{72} \textit{Ibid}
This message provided a great surge of interest in consumer concerns. Consumer problems remained in the news. President Kennedy established a Consumer Advisory Council to assist his Council on Economic Advisors. The Thalidomide Drug Scandal resulted in the birth of over 20,000 deformed babies around the world, although few occurred in the United States. The Congressional hearing prior to passage of the Kefauver-Harris Drug Amendments revealed scandalous information about large numbers of ineffective and useless drugs being sold to unsuspecting Americans.\textsuperscript{73}

Consumer Rights enunciated by President Kennedy were subsequently incorporated in the UN Charter of Human Rights. These rights have been universally accepted by all National Governments as the Consumer’s Magna Carta.\textsuperscript{74}

In 1964, President Lyndon B. Johnson created a new White House position, Special Assistant to the President for Consumer Affairs. He appointed Esther Peterson to this post. With White House visibility, consumer concern became front page news. Later the year, Johnson sent a consumer message to Congress urging passage of several new laws. These indeed were exciting times for consumers and consumer advocates, and the liberal landslide in the 1964 election gave strength to those calling for reforms.\textsuperscript{75}

\textsuperscript{73} \textit{Ibid}
\textsuperscript{75} \textit{Supra} note. 49 at 35
Public response towards consumer concern brought changes in the governmental attitude. Presidents of America considered the issues relating to consumer and established Consumer Councils to protect the interest of Consumer. Government heard and took some actions to help consumer. The late 1960s also saw the rise of a charismatic consumer champion Ralph Nader, whose efforts coupled with an increasing public awareness of consumer problems, led to the consumer movement to the present state as a growing social, economic and potential force.

b. Ralph Nader’s Crusade

Ralph Nader, a lawyer was considered as the chief exponent of modern consumer movement in the USA. He became famous for the case he fought against business and government practices. His contribution towards consumer legislation has brought about tremendous change in the consumer movement.

He was an important spokesman for the consumer at Senate Committee Hearing on Automobile Safety. His book ‘Unsafe at any Speed’ in the year 1965 brought the consumer safety issue to the forefront. This book effectively disseminated knowledge of the problem of auto safety to the general public. The passage of the National Traffic and Motor Vehicles Safety Act, 1966 was an attribute to Nader’s efforts.\footnote{Lester A. Sober, Consumer Protection, (Facts on File, New York, 1976)}

With in the next few years, Ralph Nader was to figure prominently in many congressional hearings on a wide variety of subjects relating to consumer
protection. He published US Department of Agriculture Data on the unwholesome conditions prevailing in meat processing plants, in intra state shipping, which were not subjected to the Federal Meat Inspection Act, 1906. These disclosures led to the passage of the Wholesome Meat Act, 1967\textsuperscript{77}.

Ralph Nader’s call for volunteers to come to Washington to research and become active on consumer issues resulted in hundreds of people joining what The Washington Post writer William Greider called ‘Nader’s Raiders’. The raiders descended on federal agencies such as the Federal Trade Commission, Interstate Commerce Commission, and Food and Drug Administration. Their mission was to document the extent to which these regulatory watchdogs had fallen asleep on the job or worse, become the tools of the very interests they were supposed to regulate\textsuperscript{78}.

Ralph Nader has become an institution by himself in the struggle to safeguard public interest, including consumer protection. He has sponsored two organizations, namely The Centre for Study of Responsive Law and The Public Interest Research Group\textsuperscript{79}.

Nadar and his associates shooting from the hip and distracting the opposition’s attention, more moderate consumerists, particularly a number of consumer minded members of Congress, succeeded in passing a series of major pieces of consumer legislations. In 1966, the Child Protection Act, banning dangerous

\textsuperscript{77} Shella TN, Consumer Protection with special reference to Public Utilities, thesis submitted to the University of J & K for the Degree of Ph.D. in Law (1990)

\textsuperscript{78} Supra note. 36 at 10

\textsuperscript{79} Supra note. 77
toys from interstate commerce, and the Fair Packaging and Labeling Act were signed into law. The Wholesome Meat Act and Flammable Fabrics Act were enacted in the next year. In 1968, the Consumer Credit Protection Act, Interstate Land Sales Full Disclosure Act, Natural Gas Pipeline Safety Act, Poultry Inspection Act, and Radiation Health and Safety Act became law, and this was only the beginning.

In United States, consumer activism reached its peak in the early 1970s. The Consumer Product Safety Commission was created in 1972 to coordinate and strengthen federal efforts to protect consumers from unreasonable product risks. Consumer rights pertaining to credit were strengthened in 1974 with the passage of the Fair Credit Billing Act and Equal Credit Opportunity Act.

The Congress had to pass more than twenty five statutes of consumer, environmental and regulatory reforms in a period of about eight years (1966-1974). Again, it was because of Nader’s push that the Congress had to clear the Freedom of Information Act in 1974, the only law of its kind in the world. This Act is described by many thinking Americans as a hammer to beat on the government to produce information for procuring consumer cause when the information is held up from citizens on the plea of secrecy of government records.

By the end of the 1970’s there was considerable evidence of change in the Consumer Movement. The passage of the Magnuson Moss Warranty Federal

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80 Supra note. 36 at 10
81 Ibid
82 Supra note. 60 at 8
Trade Commission Improvement Act, 1975 was probably the legislative high water mark in the current era of consumer protection. In 1976, premarket testing of all new chemical substances was mandated by the Toxic Substances Control Act. They have reached a stage of an institutionalized acceptance of the idea of consumer protection in America\textsuperscript{83}.

Until about 1976, consumerists were highly successful in Congress, but during the Carter administration the movement lost its legislative momentum. Mark Green, director of the Nader organization Congress Watch and one of Nader's most durable associates, attributed this shift to a public disenchantment with government, a rejuvenated Republican party, and a more effective lobbying effort on the part of business interest. The decline of consumer movement was partially regained by the appointment of consumer activists to high level posts in federal agencies. But after Regan's election four years later, the movement lost whatever grip it had attained on the government's regulatory apparatus. Thus 1980s serves as a convenient point for marking the end of consumer activism in the United States of America\textsuperscript{84}.

After 1962, very important legal developments took place in the Untied States to ensure special protection to consumers against adulteration, misrepresentation, labeling and other related matters. The Uniform Commercial Code\textsuperscript{85} and the 1986 Restatement of torts made a manifest shift in favour of consumers by recognizing strict liability in the sale of defective products. The

\textsuperscript{83} Supra note. 77
\textsuperscript{84} Supra note. 36 at 11
\textsuperscript{85} Uniform Commercial Code (Official text), 1962, article 2.138
1986 Restatement makes a seller of defective products liable to a consumer for any harm caused to him even if the seller has exercised all reasonable care in the preparation and sale of the product and there exists no contractual relationship between the consumer and the seller. Such a liability of the seller also exists with respect to his obligations arising under any advertisement, labels or misrepresentation of material facts regarding fitness of goods. Thus, in US the liability of seller to consumer for defective goods is irrespective of any proof of negligence on the part of the seller or contractual relationship between the seller and the consumer. The liability under the 1986, Restatement of Torts can be escaped by a seller only if he is not engaged in the business of selling the product in question or the product has reached the consumer with substantial change in its condition in which it was sold or the negligence of the consumer. The other US legislations in the area of consumer protection include: The Food Drugs Amendment Act, 1962, Cigarette Labeling Act, 1965, Fair Packaging and Labeling Act, 1966, Wholesome Meat Act, 1967, Consumer Credit Protection Act, 1968, Consumer Product Safety Act, 1972 and Consumer Product Warranty act, 1975\textsuperscript{86}.

In the United States of America the idea of consumer protection emerged due to number of events\textsuperscript{87}:

a. Housewives boycotting supermarket because of high meat prices,

\textsuperscript{86} Supra note. 33 at 6
\textsuperscript{87} Supra note. 49 at 35
b. Exposes in the form of books, news articles, and radio and television programs,

c. The formation of numerous local consumer action groups,

d. A flurry of legislative action on national and state levels,

e. Scandals concerning fabrics, drugs, food, credit, and product safety,

f. Presidential support by Lyndon B. Johnson and Richard M. Nixon through more consumer messages,

g. Introduction of consumer education courses into many schools,

h. An increased media interest in consumer issues as news,

i. Nader's network of consumer organizations and

j. A group broadening of support for consumer concerns

Awareness about the Consumer interest is undoubtedly the highest in history. Today's consumer interest is no longer submerged into the broader public interest. Consumers across the country now demand an acceptable quality of goods, and services with fair or low prices appropriate for particular levels of quality. In short, they want a good deal for themselves and others.

Due to consumer awareness once the consumer problem comes into picture regarding price and quality, complainants continue about the disparity between claims and performance. Consumers look at ways to fix the systematic poor attitudes of seller. When the growing dissatisfactions were not met by corporations, consumers took their grievances to the government. To protect
the interest of consumer and to protect their rights the governments have been passing appropriate legislation from time to time.

Consumers today are generally aware that they have certain rights, to help them avoid getting ripped off or cheated. They may not be aware about specific law or regulation that can apply but they know there is probably some corporate office or government agency that will help. Consumers in the United States inherently believe both, that they have consumer rights and the power to assert them. American consumers live in a society that has permanently imprinted the consumer interest in the mentality of its people, as well as in many of the mechanisms of business and government.\textsuperscript{88}

After going through the development of the consumer movement in America let us examine the development in United Kingdom.

2.3.3 DEVELOPMENT OF CONSUMER MOVEMENT IN UK

In England, the consumer movement developed during the 13\textsuperscript{th} and 14\textsuperscript{th} Century. The official dignitaries of the country – the Lieutenants, the Sheriffs and the Justices of Peace performed both judicial as well as administrative functions. By increasing their duties and jurisdictions in the 16\textsuperscript{th} century, they were given supervisory jurisdiction with regard to the bridges, highways, lighting and cleansing of streets, etc. The activity of consumer protection was confined only to control of prices of most needed commodities and protection from short supplies. The quality and quantity of bread, fuel, beer and meat were

\textsuperscript{88} Supra note. 49 at 50
to be regulated by the crown through judicial institutions. However, the state of the consumer was not satisfactory and there was reported little or no observation of the law as regards size or price of bread and the people were deceived and oppressed.

In the early 18\textsuperscript{th} century, making a mention of this fact about bread in a Statute of 1709, the justices peace and the mayors of boroughs were empowered to fix the weight and price of bread, matching the prices of grain and require the bakers to mark the loaves with size and quality. To prevent contravention penalties were prescribed. This state of affair continued till 1836 when the principle of competition propounded by Adam Smith was adopted to regulate these matters. The Adam Smith proposition that ‘the interest of the producer ought to be attended to only so far it may be necessary for promoting that of the consumer’ needs an appreciation. Any review of this situation in the market economy would show that the producer should adjust themselves to consumer preferences. This truly marks the bottom line of the phenomenon, but consumers being generally the weaker party, laws cannot be kept out of the consumer protection process\textsuperscript{89}.

In England the initial emphasis regarding the consumer protection was on ‘the duty to take reasonable care’ and ‘the product liability’. Manufacturer and suppliers liability for their negligence was laid down under a) The Law of Contract and b) The Law of Torts.

\textsuperscript{89} Supra note. 33 at 4
A) Law of Contract

The early Law of Contract was based on the twin doctrines of *Caveat Emptor* and sanctity of contracts. In order to succeed in a contractual action, the buyer had to prove that he relied not merely on the statement made by the seller. The statement should have been in the nature of a promise made by the seller to the buyer. In case the product was defective the seller would repair or replace it, although exceptions were made in some situation\(^{90}\).

With the growth and complexity of consumer transactions, and in view of the manifest injustices of the application of this rule, the courts in the nineteenth century groped in the dark for new basis of contractual liability for supplying defective goods. How could the buyer beware if he had no opportunity to inspect the goods?\(^{91}\) For safe guarding the interest of an unwary buyer the courts in some cases laid down the requirement of merchantability which, according to them was, implied in the sale. In *Jones v. Bright*\(^ {92}\) Best, C.J. of the Court of Common Pleas observed that 'if a man sells an article he thereby warrants that it is merchantable—that is fit for some purpose'. By the end of the nineteenth century the warranty of merchantability had been developed and incorporated as exception to the *caveat emptor* rule in the Sale of Goods Act, 1893. *Section 14* of the Act reiterated the time honoured the maxim caveat emptor by providing that there was no implied warranty of quality, fitness or condition of goods supplied under a contract of sale but exceptions to the rule

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\(^{90}\) Crosse v. Gardner (1688) Carth. 90, Chandeler v. Lopus (1603) cited in Hard. L. Rev. 283


\(^{92}\) (1829) 5 Bung, 533
were set out when implied warranties of merchantable quality and fitness of purpose would apply, the most important one being that the seller was a dealer in the goods sold\textsuperscript{93}.

Under the name of freedom of contract both parties were free to make any stipulations without regard to the position of the parties. In monopolistic trading and public utility services, the seller of goods or provider of services was always in a dominant position and to protect itself from liability, standardized terms of contract were developed to exempt the seller from liability. The typical exemption clause would be framed as 'all conditions, warranties and liabilities express or implied by statute, common law or otherwise are excluded'. In the course of time the courts developed new strategies to strike down such exemption clauses. For a long time there was a tug of war between the draftsman of such clauses and the courts. While the former would recast the clause to fill in the gaps, the courts found new way of holding these as ineffective and void. The most significant theory developed was that a party to the contract could not by making a sweeping exemption destroy the contract itself which would constitute fundamental breach. In any case, the courts would not take the position that a contract would be unenforceable on the ground that it was harsh or unfair. To set the matter right the Parliament did intervene to protect a consumer who had no option but to agree to such conditions in contracts of sale and services. The Supply of Goods

\textsuperscript{93} Supra note. 6 at 9
(Implied Terms) Act 1973 and Unfair Contract Terms Act, 1977 now cover the field regarding such exemption of liability clauses.\textsuperscript{94}

B) Law of Torts

Tort is the violation of a duty laid down for which damages are awarded by the court. It is well established that to succeed in an action in torts that plaintiff must prove that a duty was owed to him, that there was a violation of that duty and the plaintiff suffered loss or injury as a consequence. In contrast to contractual liability which involves violation of an obligation owed to a specific individual or individuals (in personam) liability in tort arises out of violation of a duty which is owed to people in general (in rem). We have seen that requirement of privity, made it impossible for the buyer to claim damages from the manufacturer of goods unless the product was actually sold. Likewise, the seller of goods could not be made liable to any one other than a buyer. Thus if the buyer had allowed the use of the thing to some one else who suffered injuries due to defects in the product, the user could not sue the seller because of the doctrine of privity. A steady rise in the complaints regarding defective products which resulted in injuries to users other than actual buyers finally prompted the courts to adapt the law to the needs of the time.\textsuperscript{95}

Protecting Consumer in England was initially based on the concept of 'Product Liability'. The classic case of \textit{Donoghue v. Stevenson}\textsuperscript{96} has given rise to the law of negligence relating to consumers. This case was concerned with the

\textsuperscript{94} ibid
\textsuperscript{95} Id at 10
\textsuperscript{96} (1932) AC 562
nature of the duty owed by the manufacturer to the ultimate consumer of his products. In the instant case, the appellant and her friend went to a café. The friend purchased a bottle of ginger beer and gave it to her. After she consumed the contents of the bottle, the friend poured out the remainder of the bottle revealing a decomposed snail. She consequently suffered shock and severe ‘gastro enteritis’. Even though, the appellant was not a party to the contract as a purchaser of goods, but still the manufacturer owed a duty of care to the ultimate consumer. Lord Atkin while explaining the nature of this duty observed\textsuperscript{97}:

“A manufacturer of products which he sells in such a form as to show that he intends them to reach the ultimate consumer in the form in which they left him with no reasonable possibility of intermediate examination, and with the knowledge that the absence of reasonable care in the preparation or putting up of the products will result in an injury to the consumer’s life or property, owes, a duty to the consumer to take reasonable care’.

Thus where a consumer suffers any loss or injury by manufacturer’s products, the manufacturer was held liable, if negligence could be proved against them. The principle laid down in \textit{Donoghue v. Stevenson} was made applicable also to the suppliers, distributors, retailers, packagers, bottlers and repairers over a period of time. Manufacturer’s liability was reiterated time and again by the Court in various judgments\textsuperscript{98}.

\textsuperscript{97} Id at 599 case

\textsuperscript{98} Grant v. Australian Knitting Mills Ltd. (1936) AC 85, Stennet v. Hancock (1939) All. ER 578, Holmes v. Ashford (1950) 2 All.ER 6
In all such cases the manufacturer was at fault — and he did not take reasonable care. A higher degree of care would be expected in respect of products which are likely to cause extensive damage or grave injury than those where there was no apprehension of such damage or injury. Product liability has, however, now been put on a firm footing with the adoption of EEC directives in the United Kingdom.

With regard to tortious liability it may be noted that until recently it was possible for a person to exclude liability for negligence and this device was sued extensively in contracts for supply of goods or services. The Unfair Trade Terms Act, 1977 contains provisions to suppress this evil. It is laid down that an exemption clause which excludes or limits liability for negligence causing physical injury or death would be unenforceable. With respect to damage or loss of property caused by negligence such exemption clause may be upheld if it is reasonable\(^99\).

Law of Torts and Contract played an important role in protecting the interest of consumer in United Kingdom. These laws provided remedy against the manufacturer with respect to products. Besides this, the judiciary also imposed liability on the manufacturer.

Before the emergence of the modern consumer movement, the consumers had to depend upon the ordinary remedies for defective products under

\(^99\) *Supra* note. 6 at 10
a) Laws relating to implied conditions and warranties, requiring the goods to be true to their description, of merchantable quality and fit for the buyer’s purpose,

b) Guarantees of after sale services, and

c) Advertisements in the form of contractual promises.

Before the First World War, ‘Laissez faire’ served to bring about the rule of ‘Caveat Emptor’. Common law was the protection against aggressive salesmanship, fraud and breach of promises. British National Institute in UK played a significant role in assessing the interests of consumer in 1925. In Great Britain the consumer movement actually began to gather momentum during the years following Second World War through voluntary actions mostly taken by Women’s Organizations. For the first time one of the leading political parties came into the picture in a significant manner, when in 1955 the Labour Party put out a pamphlet entitled “Battle for the Consumer”. It not only argued the case for quality marketing of goods but also the setting up of a Consumers’ 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. In fact, a consumer revolution was gradually taking place in Britain.  

In Britain the main consumer realities of the 70s which were in existence which intensified the consumer movement were viz. skepticism, knowledge and professionalism. Consumer protection in Britain is an established concern,

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addressing itself to the matter of consumer protection in a very different way. Consumer advice is a major focus. Much of this advice is preventive rather than redressal of actual grievances.\textsuperscript{101}

The British Parliament had taken initiative to protect the interest of consumer and to redress their grievances by enacting various legislations with regard to various kinds of consumer exploitation like consumer credit, monopolies, restrictive and unfair trade practices etc.

In Britain enormous amount of sales takes place on credit. It became a practice for the manufacturer and the trader, to provide or supply the goods on credit to the buyer and to recover the sale price in easy installments. Generally goods were bought from the dealer by the company and then the latter entered into hire purchase agreement with the customers. As a result, the dealer was not answerable to the customer for any fault in the goods as there was no privity between the two.\textsuperscript{102} To protect the interest of the affected consumer and to provide relief, the Parliament passed The Hire Purchase Act, 1938. It was then replaced by Hire Purchase Act of 1965, in respect of faulty goods supplied under the hire purchase agreement, conditional sale agreement and credit sale agreements, under the Supply of Goods (Implied Terms) Act, 1973. The implied conditions of merchantability and fitness of purpose are to be read in the same manner as in the case of Sale of Goods Act, 1979. In this situation consumer was not in a position to protect his rights under these enactments.

\textsuperscript{101} Werner F. Menski, “Consumer protection in India and Britain” Vol. 17, Consumer Confrontation Ahmadabad, (1987) at 11
Finally to protect the consumer from all the implications of consumer credit, the Consumer Credit Act, 1974 was enacted based on the report submitted by the Crowther Committee\textsuperscript{103}.

To regulate and control monopolies in United Kingdom, the British Parliament enacted the first law that is Monopolies and Restrictive Practices (Inquiry and Control) Act, 1948. Further the passage of the Restrictive Trade Practices Act, 1956 brought into existence the Restrictive Practices Court. Under this enactment certain agreements which restricted competition were required to be registered with the Registrar of Restrictive Trading Agreement. Cases of false or misleading trade descriptions through advertisements are covered by the Trade Description Act, 1968. This Act makes unfair trade description as an offence. There is also a prohibition on the making of a false statement regarding services, accommodation or facilities provided during the course of business.

The above enactments made by the British Parliament failed to protect the interest of consumer. All these enactments are haphazard. To avail justice, the consumer had to move from pillar to post. There was no separate statute to protect the interest and the rights of the consumer. In this situation, a duty was imposed on the Parliament to make a comprehensive legislation to protect the interest of consumer.

\textsuperscript{103} Supra note. 6 at 10 - 11
For the first time the manufacturer's liability towards the consumer was explained by the Report of the Royal Commission on Consumer Protection known as the Malony Report in 1962. This report deals with the principle of collateral contract as well as the victim of deception induced to buy goods by offering guarantee. Later the Lord Pearson Commission I 1973, recommended applications of strict liability to consumer sales. The Strasbourg Convention in 1977 on Production Liability in regard to personal injury or death, reflected the same view\textsuperscript{104}.

Based on the new thinking on consumerism, the consumers were given wide space to breather by the Unfair Contract Terms Act, 1977 and the Consumers Transactions (Restrictions on Statements) Order, 1978. This Act excluded the possibility of exempting the supplier from liability under any express terms in the contract by making such terms non-applicable to consumer goods that is goods of type ordinarily supplied for private use or consumption\textsuperscript{105}.

Later, with the European Commission Directive of 1985 the British Parliament enacted Consumer Protection Act, 1987. This was the most important and comprehensive legislation to protect and promote interest of consumer. This Act imposes a strict product liability, making the producer jointly and severally liable to the consumers. Under Sec. 7 of the Act, they cannot escape the liability by any terms in the contract. During 1990s the most important and significant Act was made for consumer safety known as Food Safety Act, 1990.

\textsuperscript{104} Supra note. 33 at 4
\textsuperscript{105} Ibid
Under this Act directions can be issued at any time for the safety of consumers, whenever found necessary.

Besides all these statutory developments, the remedy under Law of Torts continues to be available to consumers and this has been expressly provided under Sec. 6 of the Consumer Protection Act, 1987. This Act consolidated with amendments, the Consumer Safety Act, 1978 and the Consumer Safety (Amendment) Act, 1986\(^{106}\).

In United Kingdom the manufacturer and product liability is recognized under common law provisions. Parliament has taken initiative from time to time and made various legislations for the protection of consumers.

After understanding the development of consumer movement in the most important developed countries like USA and United Kingdom. Now let us examine in brief the growth of consumer movement in other developed and developing countries in the world like Japan, Australia, Yugoslavia, Poland, and New Zealand etc.,

\(^{106}\) Id at 5
2.3.4 CONSUMER MOVEMENT IN OTHER COUNTRIES

Even though during 1960's America and United Kingdom pioneered in developing consumer enactments and policy to protect the consumer in the market place. Consumers are cheated and exploited in other counties also. In other countries consumer movement gained due to consumer consciousness, consumer believed that he is not getting what he deserved in the market. Voluntary organizations also helped in this aspect.

1) Consumer movement in Japan

Japan is one of the most technologically developed countries in the world. Japan has demonstrated how consumer revolution can take place along with rapid economic development and the emergence of a mass consumption society. In Japan, some laws, like Food Sanitation Law, enacted in the period of economic recovery after Second World War, contain certain benefits for consumer, but the conscious tackling of the consumer problems started only after the high growth period when unsafe products started causing serious suffering to consumers.

Consumer organizations in Japan are extensive and well organized particularly in consumer boycott activity. They are largely made up of women especially 500 housewives' groups. These groups are active in product testing as well as boycott¹⁰⁷.

¹⁰⁷ Supra note. 60 at 8
Japanese Housewives Association was founded in 1968 at Tokyo, after a series of administrative and legislative measures introduced in 1948. The basic law for the protection of consumer was established accordingly every organization was directly responsible to the Prime Minister. In Japan, consumer protection is not confined to the national government alone. It is the responsibility of all the municipalities and other local governments. A large number of voluntary consumer organizations have also sprung up devoting increasing attention to the other aspect namely, information, education and guidance. The movement in Japan took its roots through the various forms or measures of protection of consumer taken by the government. In addition to organization like Japanese “Shufureh”, other main current of movement were consumer union, grass root consumer groups and government sponsored consumer groups. While functioning autonomously they combined from time to time for joint action\textsuperscript{108}.

In 1963, a report on consumer protection was issued by the Council on Measures to Improve Living Standards which had been established in 1961 as an Advisory Body to the Secretary General of the Economic Planning Agency. The report was followed by the establishment of Consumer Affairs Division in the ministries of Agriculture and Forest and the International Trade and Industry in 1964 and 1966 respectively. Soon the law against Unjustifiable Premiums and Misleading Representation (1964) and the Consumer Protection Fundamental Law (1968) were enacted. The Local Government Law was amended in 1969 to designate consumer protection as the responsibility of the

\textsuperscript{108} Sharma Chandrakant, \textit{Role of Consumer Organizations in Consumer Protection}, (Kanishka Publisher, New Delhi, 1995) at 14 -15
local government. These legislations now constitute the main base for the protection of consumers in Japan\textsuperscript{109}.

Japanese Consumer Association (JCA) was formed in 1963 with a combination of government subsidy, subscription to its magazine, donations by manufacturers of products to be tested and government testing agencies. The JCA, made a serious efforts to reduce possible outside influences when it decided to purchase in the open market, the products to be tested\textsuperscript{110}.

The government of Japan is one among the other countries that are now taking a keen interest on developing consumer awareness in the Asia Pacific Region. The Japan Consumer Information Centre (JCIC) a quasi government body is engaged in providing aid for projects related to consumer affairs, overseas. Other efforts are being made in regards to setting up of Regional Training Centre and a testing laboratory\textsuperscript{111}.

2) Consumer movement in Australia

In Australia, consumerism provides a fine example of government’s purposefulness in the field of consumer protection. In the wake of establishing consumer protection as a national issue, the consumer participation in public management has been attempted. To protect the interest of the consumers the government has sponsored a Consumer Forum to provide consumer

\textsuperscript{109} Supra note. 33 at 6 -7
\textsuperscript{110} Arch W. Troelstrup E Carl Hall, The Consumer in American Society, (Mc Grew Hill Book Co, New York, 6\textsuperscript{th} Ed. 1978) at 527
\textsuperscript{111} Kanniah Rajeshwari, “ The Consumer Force in the Asia Pacific Region” Paper presented in the National Workshop on Consumer Laws, IOCU, 1990
representation on official advisory bodies with a general mandate in the consumer area. It is a standing advisory board under the presidency of the Federal Minister of Trade, Commerce and Industry. The Forum has issued a Declaration of the Basic Rights of the Consumer, which has been accepted by the government as the guideline of its policy. The Declaration specifically asks for effective protection against dangerous products, information about the characteristic of all goods displayed and advertised protection against misleading sales, information and the promotion of all institutions and forms of consumer services and consumer consultation by the government and the institution of its economy. The Consumer Forum has become the exclusive platform of discussion and final compromise between different sectors of the Australian economy, which must be accepted as the guideline of government policy on trade prices and quality, its deliberations have come to acquire tremendous weight\textsuperscript{112}.

Consumer protection received significant attention both at federal and state levels in Australia. Australian Consumer Association (1959) is largest, and produces a monthly magazine Choice. CLA-N (Consumer Law Association-National) is an emerging Australian network of consumer lawyers. It is to be noted that most of the consumer protection agencies were established in the seventies\textsuperscript{113}.

\textsuperscript{112} Supra note. 77
\textsuperscript{113} Supra note. 108 at16
In Australia consumer testing is undertaken without government support. The private consumer testing agencies in the country has been most careful to steer clear of business entanglements. They have recruited technical personnel to give impartial assessment of products bought on the open market.

3) Consumer Movement in Poland

Poland has a very active consumer movement and a system of redress of grievance more or less similar to the Consumer Forums envisaged in India under the Consumer Protection Act, 1986 functioning for the last nine years. Poland, in fact, had the distinction of being the first socialist country to officially register a consumer organization known as ‘Polish Consumer Federation’ (PCF) set up in 1981. PCF is independent economic organization not under the control of the state administration. The basic organizational unit of the federation are ‘Consumer Federation Clubs,’ which regularly hold consumer tribunes or meetings between consumer and representatives of local authorities, managers or economic units and organizations operating in the area to successfully resolve consumer problems. The clubs called Municipal Clubs, Village Clubs, and Community Clubs depending on their territorial range\textsuperscript{114}.

Another important function of the Consumer Federation is to regularly hold telephonic opinion surveys in cooperation with newspapers on all aspects concerning consumers from price and quality to postal and transport services. Their opinion found a reflection in legal solutions. The Consumer Federation

\textsuperscript{114} Supra note. 77
lawyers extend advice to consumers in person, by telephone or by correspondence. Sometimes these consultations are followed by intervention.

In 1984, the Federation was endowed with the right to institute, legal action in civil cases on behalf of defendants or on its own behalf in favour of consumers.\textsuperscript{115}

In 1985, the Consumer Federation created a 'social quality circle', that gathers people interested in a particular problem. Participants discuss the problem in depth, come to conclusions and publish them regularly. A Product Testing Centre has been set up in 1988. It conducts independent tests on products available in market to assess their quality and suggests improvements. The mass media in Poland has also taken up the cause of consumers in right path. Regular programmes meant for consumers are being broadcast and regular consumer columns in many newspapers, published. The Federation also publishes its own monthly magazine called "ATUT".\textsuperscript{116}

Further the researcher aims to highlight the development of consumer protection in other countries like Sweden, New Zealand, and Yugoslavia.

4) Sweden is a country that has particularly made a distinctive effort. It has done a pioneering work in the field of consumer protection through an active government policy. Two comprehensive legations have been passed. They are Marketing Practices Act and the Prohibiting Improper Terms of Contract Act, 1971. These Acts are implemented through the Office of National Consumer

\textsuperscript{115} Ibid
\textsuperscript{116} Ibid
Ombudsman (NCO). Senior Official of NCO is appointed directly by the King in Council and has complete autonomy and is immune from political pressure. His position is similar to that of civil servant.\textsuperscript{117}

In Sweden, since the early fifties three institutions of great significance have been functioning for consume protection. These are the National Institute of Consumer Information, Ministry of Consumer Welfare and the State Financed Consumer Council.\textsuperscript{118}

The Swedish citizens consider the Consumer Ombudsman as the primary method of obtaining consumer protection. The Consumer Ombudsman made a significant contribution towards creating a climate of consumer protection in Sweden. Swedish consumers are made aware of consumer issues because of his work. He is known throughout Sweden as a Consumer Advocate and is looked at as a focal point for securing consumer justice.\textsuperscript{119}

5) The most interesting development from the point of consumer protection has taken place in New Zealand, where the influence of consumer's movement is reflected not only in legislation but also in the organization of consumers. In 1959, a Consumer's Council was established under the Ministry of Industry and Commerce. By 1966, consumer's institute was formed. The Council has been placed outside the administrative control of the Ministry and it also invites the public to become subscribing members of the Institute. The Institute's

\textsuperscript{117} Ibid
\textsuperscript{118} Supra note. 100
\textsuperscript{119} Supra note. 77
objectives are to educate the public of the relative disadvantages of different available brands to publish useful literature\textsuperscript{120}.

In New Zealand, the consumer organization undertakes consumer testing through government subsidy. The government linked the testing facilities of its Bureau of Standards and of its Universities with the consumer testing movement and has developed a quasi autonomous consumer testing movement supported by voluntary subscription.

6) In Yugoslavia, consumer organizations for decades have been keeping a check on irregularities and unfair market practices. They involve the public extensively, and about 6,000 Consumer Councils have been formed in the country. The influence of Consumer Councils is increasingly felt in the domain of production. There is special center in Belgrade for giving expert judgment on the quality of consumer durable and to inform the public about it\textsuperscript{121}.

Analysis of consumer movement in other countries proves that, it was a movement of consumers and organizations that came forward to protect the interest of consumers. In almost all countries this movement was initiated by Consumer Organizations.

The further part analyzes the development of consumer movement at international level.

\textsuperscript{120} Supra note. 100
\textsuperscript{121} Supra note. 77
PART II

2.4 CONSUMER MOVEMENT AT INTERNATIONAL LEVEL

2.4.1 INTRODUCTION

Every day of our lives each one of us plays a part in the intricate machinery of international trade. We may be awakened in the morning by a Japanese clock-radio, dress in English tailored clothes or Italian shoes, run our Germany made automobiles on Middle Eastern or Venezuelan fuel, sip French wine at dinner, with Central American fruit for dessert and light our homes by means of wires manufactured from African or Chilean copper. In similar fashion, foreigners consume and use countless American products, including bread from United States grain. They ride in American made jet aircraft or on roads bulldozed or paved by American earthmoving machinery. They go to discotheques wearing American blue jeans while they dance to American made records. The list is endless.\(^{122}\)

As consumers, each time we buy a product made in a foreign country or made from raw materials from a foreign country, we participate in the vast and complex interchange or international trade. International trade has a substantial impact on our life. Every one being consumer one way or other let us verify the development of consumer protection at the international level.

\(^{122}\) Supra note. 110 at 526
To understand the development of consumer movement through various voluntary international organizations, the researcher has discussed the development under two important categories. They are

1. European Economic Community and
2. Growth of consumer movement by voluntary international organs

### 2.4.2 CONSUMER MOVEMENT IN EEC

There is rapid development in European consumer development. An unprecedented number of consumer protection organizations have emerged in Europe. Some are stimulated by the cooperative movement, some given governmental assistance, and some arising from independent efforts. The European Economic Community (EEC) has founded an appropriate outlet to the ordinary citizens of the common market in the field of consumer protection. Jean Monnet was recognized as the founding philosopher towards the establishment of EEC. He always considered that the welfare of the consumers lay at the heart of the reasoning in favour of common market (EEC)\textsuperscript{123}. The aim was to achieve high productivity to keep competition and therefore, lower prices combined with the greatest variety of consumer choice across the community as a whole. The 1957 Treaty of Rome, in which the EEC Charter set out the rules governing the ‘four freedoms’ – movement of goods, services, people and capital – consisted the indispensable frame work of the market and

\textsuperscript{123} Rich W. Micklitz HW, Consumer Legislation in the EC Countries : A Comparative Analysis, (Britain, 1980)
the procedures to deal with practices restrictive of competition\textsuperscript{124}. Consumer protection is the positive intervention by public authorities in the market place. The Consumer Protection Laws enacted in the US during sixties found early echoes in Europe.

In European countries, the period of substantial development in the consumer protection laws began during 1960s and their main purpose was to prevent trading abuses caused due to imbalance of power between the ordinary persons and the producers of goods and service providers. In 1973, the Consumer Organization supported the entry of Britain in to the European Economic Community as they wanted to benefit from the common market and the goods flowing freely into their markets. In 1975, a specific programme for consumer protection was approved by the Council of Ministers of the Community. In this respect, the President of the Commission of the European Communities observed that “we must make the community a practical reality in terms of everyday life”\textsuperscript{125}. The main objectives to be achieved by the 1975 programme include:

a. Effective protection against hazards to consumer health and safety,

b. Effective protection against damage to consumers’ economic interests,

c. Adequate facilities for advice help and redress,

d. Consumer information and education,

\textsuperscript{124} Ibid
\textsuperscript{125} Commission of the European Communities, Consumer Protection and Information Policy, Foreword (1977)
e. Consultation with and representation of consumers in the framing of decisions affecting their interests.

Consumer Organizations looked to the European Community to give a lead in more explicitly directed initiatives and much faith was placed to implement the above rights. The Commission has submitted its draft regarding mis-leading advertisements, door step contracts, consumer credit and product liability. Further, Draft Resolution concerning the second programme of the EEC for 'Consumer Protection and Information Policy' was submitted to the Council in 1979. In 1981, the Council of Ministers of the European Economic Community, to attain harmonization in the common market and to unify the law relating to defective products, adopted an important directive, known as the EC Product Liability Directive, issued on July 25, 1985. By introducing the Directive, it was recognized that the varied levels of protection afforded to consumers in different countries could distort the movement of goods in the common market and sought to remove this obstruction to free trade. So the Directive was issued to implement, throughout the common market, a strict liability system of compensation to consumers for death, personal injury or damage to property due to defects in products. The system introduced by the Directive, which supplemented the national laws, sought to prescribe minimum

rights of consumers, upon which they could rely and the producers could be held responsible\textsuperscript{127}.

2.4.3 GROWTH OF CONSUMER MOVEMENT BY VOLUNTARY INTERNATIONAL ORGANS

The consumer protection has attained enormous international dimensions due to increase in international trade and commerce. The production, distribution and promotion of goods and services by multinational companies have raised various issues which call for inter governmental cooperation. The developing countries are far behind in protecting the interests of their consumers because of the lack of resources and necessary infrastructure to do so. The low income groups comprising the major consumer population in these countries face not only the dearth of food products and basic necessities of life but also crisis in terms of quality at reasonable prices. These countries need a vibrant consumer movement with international outlook. Since, without the vibrant consumer movement, they cannot protect themselves against hazardous or adulterated goods or food items and effects of deficient services, the matter has been given due place in the international agenda. Many programmes have been launched at the international level to deal with consumer protection and the emphasis is on providing basic goods and services\textsuperscript{128}.

At the international level, many Non Governmental Organizations and consumer groups (labour organization, business communities and their

\textsuperscript{127} Supra note. 33 at 8
\textsuperscript{128} Id at 9
representatives and industrial groups) have organized themselves to advance the cause of consumers.

The prominent and internationally known organization, International Organization of Consumer Union (IOCU) was formed in 1960 at Hague by consumer groups of United States, Britain, Australia, Belgium and Netherlands, with a view to promote world wide cooperation in consumer information, education and the comparative testing of goods and services. The IOCU is a non commercial organization. Its members have agreed to refrain from any use of their membership for advertising purposes, for promoting the sale of any product, or for any commercial purpose whatsoever. The name of IOCU or references to IOCU publications and other materials may not be sued for advertising or for any commercial purposes.

Transcending the national level, it found poignancy by the United Nations Organization and as a result the consumer interest got expression at the 29th Session of the United Nations Commission on Human Rights, held in Geneva in 1973\textsuperscript{129}. In August 1977, the UN Economic and Social Council passed a Resolution on Consume Protection calling upon the UN Secretary General to submit on its sixty fifth session a survey illustrative of the range of institutional and legal arrangement existing in the field of individual consumer protection at the national level\textsuperscript{130}.

\textsuperscript{129} "Consumer Affairs", (London, Britannica Book of the Year, 1974) at 206
\textsuperscript{130} Fazal Anwar, "Consumerism : An International Perspective", Keemat, CGIS, Bombay, at 6
IOCU has played a leading role in the development of consumer affairs in the Asia Pacific Region ever since the founding of the Asia Pacific Office in 1974 in Malaysia. The main work of IOCU has resolved around developing consumer groups in the region, providing information and representing regional interests at the international level. The IOCU Penang Office is also the focal point for many global or regional issue oriented networks such as Consumer Interpol, Health Action International and Action for Rational Drugs in Asia (pharmaceuticals) Pesticide Action Network (Pesticides), etc. These networks facilitate information exchange, linking up, collaborating and joint advocacy with other likeminded groups on issues of common concern and interest. IOCU has consultative status with several UN agencies such as ECOSOC, FAO, WHO, UNIDO, UNICEF AND UNESCO\textsuperscript{131}.

Let us examine role played by some of these UN Agencies in protecting and promoting consumer interest. Consumer movement at international level further gained a momentum at the intervention of UN General Assembly. In 1980, the UN Secretary General emphasized that “international cooperation with regard to consumer protection is needed because the development of consumer protection policies no longer require that measures be taken only at the international level”\textsuperscript{132}. This is so also because the world economy has become inter dependent and due to international character of business practices the marketing of goods and services is often done on multinational basis by

\textsuperscript{131} Supra note. 108 at 17

transnational Corporations. So the problems encountered by consumers are often not exclusively to any one country. As a result, measures adopted to protect the consumers in one country can have implications for consumers in other countries as well. An important issue is that the consumer protection measures, such as national standards, intended to protect consumers in one country, can become barriers to international trade and make it more difficult for consumers in that country to choose among various goods which could be available at the lowest possible price. That may also affect producers in exporting countries by depriving them of the income generated by exports. Again the issue that calls for wider concern is the exchange of information on banned and severely restricted products at international level in order to enable importing countries to protect themselves adequately.\footnote{Ibid}

In view of the effectiveness of programmes at the international level, many international organizations have been actively contributing towards developing a global consumer cooperation. Inter Governmental Organizations are also participating in the process by creating special divisions for the protection of consumers in different areas. Food and Agricultural Organization (FAO) is not only pursuing special programmes for food but is also providing necessary guidance for pursuing the consumer objectives. The International Labour Organization (ILO) promotes the interests of workers (as consumers) by providing them basic necessities of life, reasonable in terms of price, quantity and quality. The welfare facilities at the work place and providing education to

\footnote{Ibid}
workers also help in strengthening cooperative consumerism. The World Intellectual Property Organization (WIPO) has been favouring a new model law for developing countries on trade marks in order to ensure the supply of genuine goods to the consumers\textsuperscript{134}.

The WIPO is, therefore, concerned about the measures to use industrial property for the improvement of the protection of consumers particularly in developing countries and relations between developed and developing countries. The Expert Committee of WHO is also active for the protection of consumers and has prepared a list of drugs considered ‘most essential’ for maintenance of health to help governments in the selection and procurement of drugs at a reasonable price, which is particularly important for developing countries with limited financial resources. The list leaves scope for necessary modifications which may be required to meet local conditions and needs. However, the other drugs have not been declared as not useful, but it has been emphasized that the enlisted drugs are essential to ensure basic health care of the majority of the people\textsuperscript{135}.

To protect the interest of consumers, the Inter governmental Working Group on the Code of Conduct of the Commission on Transnational Corporations, in its

\textsuperscript{134} \textit{Supra} note. 33 at 10

4th session on March 1978 laid down certain formulations. To evolve equitable principles and rules for the protection of consumers and also to restrict business having adverse effect on consumers, efforts are continuing for framing model laws in order to help developing countries to devise appropriate legislations. The Third Adhoc Group of Experts on Restrictive Business Practices of UNCTAD identified certain restrictive business practices, affecting consumers, including fixation of prices, resale price maintenance, refusal to sell, the price policies of enterprise on an individual basis, acquisitions, mergers and take over agreements between enterprises concerning standards, and the supply of spare part and replacement in particular for after sale services. As regards the role of UNCTAD, at the meeting of the ‘Group of Governmental Experts on the Role of the International Property System in the Transfer of Technology’ held in October, 1977 considerable attention was given to the matter relating to implication of trade marks for consumer protection in the agreed conclusions and decisions as well as in the

‘Declaration of Government Experts from Developing Countries Members of

136 (i). Perform their operations in a way that does not cause dangers to the health and safety of consumers and maintain consistent quality of products,
(ii). Disclose, to the appropriate authorities of the country in which they operate, information relating to features of their products which are directly related with the health and safety of consumers,
(iii). Disclose all information relating to prohibition, restrictions, warnings and other regulatory measures imposed in other countries on grounds of health and safety protection on products which they produce or market or propose to market and on process which they use or propose to use in the counties concerned,
(iv). Disclose appropriate information relating to experimental aspects and uses of products which they propose to use or market in the country concerned,
(v). Disclose to the public all necessary information on the contents and the possible dangers or other adverse effects of the products they produce or market or propose to produce or market in the countries concerned by means of proper labeling, informative and not misleading advertising and other appropriate methods and
(vi). Cooperate with the governments of the countries in which they operate with a view to promote standards for protection of the health and safety of the consumers in relation with their production or marketing in the countries concerned.

the Group of 77'. In this respect, the UNCTAD prepared a study giving a comprehensive analysis of the role of trademarks, particularly foreign owned trademarks, in consumer decisions and its consequences for developing countries\textsuperscript{138}.

The Food Science Control and Consumer Protection Group of the FAO has played an important role in the matter of increasing food production, raising food quality, promoting food processing to meet established standards, conservation of food resources and in improving food storage, marketing and distribution system. An important step was the documentation at the international level, developed to help the countries to reach desired goals and publication of general guidelines for food control services, including preparation of Model Food Law, laboratory and inspection manuals, specialized documents on the problems such as mycotoxins, expert inspection, training aids, etc. To set international standards, the Codex Alimentarius Commission, established in 1963 has also done a significant work. Its 26th session was held in Rome from June 30\textsuperscript{th} – July 7\textsuperscript{th} 2003. Its work is also related to legislative aspects of food irradiation to prevent food losses, labeling, advertising and nutritional questions relating to foods\textsuperscript{139}.

The United Nations Industrial Development Organization (UNIDO) has made contributions with regard to the safety of consumers by providing the required institutional machinery to promote adequate quality control procedure for

\textsuperscript{138} Ibid
\textsuperscript{139} Supra note. 33 at 12
improving the quality of goods and products organization and implementation of national quality certification marketing schemes which guarantees certain relevant quality standards. Its integrated programmes include the continuing technical cooperation projects and planned activities in standardization, quality control and quality certification. In the area of food for infants and children and the safety and nutritional value of such food, the UNICEF has done appreciable work by encouraging breast feeding over powder milk for infants\textsuperscript{140}.

Further, in 1985 IOCU established an Office for Latin American and the Caribbean in Montevideo, Uruguay. In 1988, IOCU made inroads into Africa with two Conferences that gave direction to the budding consumer movement there. Again in 1989, IOCU recognized its Central Office in Hague into a Regional Office for Europe and North America. In response to exciting political changes underway in the socialist countries, it also brought Western and East European Consumer Groups together for first time in Warsaw, Poland\textsuperscript{141}.

Two other main inter governmental institutions involved in consumer affairs in the region are the Organization for Economic Cooperation and Development (OECD) and the Economic and Social Commission for Asia and Pacific (ESCAP). ESCAP has had a direct but modest influence on the development of Consumer Protection Policy in Asia Pacific Region. OECD Council decisions

\textsuperscript{140} \textit{Ibid}

are legislating in member countries and the recommendations and guidelines are voluntary, moral obligations on member countries.\textsuperscript{142}

To study governmental consumer protection polices in member countries, the OECD constituted a Committee on Consumer Policy. Its report highlighted the problems relating to consumer credit and the principles for providing more consumer information and protection. The committee on consumer policy also publishes annual report on consumer policy in OECD member countries, reviewing institutional developments and enactments and amendments to existing regulations as measures for providing consumer information and education. Besides, the Inter Scandinavian Committee on Consumer Matters coordinates research and information on consumer protection and keeps in touch with the National Consumer Councils in the Scandinavian countries.\textsuperscript{143}

In between, the various sporadic efforts have been noted in other countries such as the National Boycott Committee of Mauritius and its branch, the Consumer Health Action Network (CHAN) which held protest marches in 1989, thus making Mauritius the 11\textsuperscript{th} country to join the Second Nestle Boycott.\textsuperscript{144}

IOCU has done invaluable work in the field of consumer protection. It is having membership from over 50 countries as well as government financed Consumer Councils, Labour Unions and similar groups and possessed a consultative status with various international agencies. The International Chamber of Commerce (established in 1920 in Paris) also deliberated on the

\textsuperscript{142} Supra note. 111
\textsuperscript{143} Supra note. 33 at 13
\textsuperscript{144} Patricia, \textit{The CUTC Newsletter}, (January - March, 1990) at 14
issue of consumer protection in 1997 and established an international Council on Advertising Practice and drafted a Code of Advertising Practice. Its Code of Market Research Practice worked for laying down standards for enterprises specializing in market research. The last half century has been phenomenal increase in consumerism and with that the efforts to protect the interest of consumers\textsuperscript{145}.

UN also played an important role in protecting and promoting the interest of consumer through its various agencies. Besides establishing various agencies the UN has laid down vital guidelines for the benefit of consumers. On April 9, 1985 the UN General Assembly, with due negotiations in the UN Economic and Social Council (ECOSOC), adopted by consensus a set of Guidelines on Consumer Protection\textsuperscript{146}. They provided a framework to strengthen policy and legislation to protect consumers and also promote international cooperation in this field. These guidelines include provisions on:

a. Physical safety of consumers,

b. Protection of economic interests of consumers,

c. Consumers' access to information needed to make informed choices,

d. Measures enabling consumers to obtain proper redress and

e. International cooperation in the filed of consumer protection

The Guidelines also proposed measures in the essential areas of food, water and pharmaceuticals, emphasizing for product quality control, adequate

\textsuperscript{145} Supra note. 33 at 13

\textsuperscript{146} UN Guidelines for Consumer Protection, Resolution No.39/348, dated 9\textsuperscript{th} April, 1985
distribution facilities. Standards, labeling and education and research programmes. The governments are also required to take care in the areas of pesticides and chemicals under the Guidelines.

The Guidelines have identified the main concerns in consumer protection with reference to consumer’s basic needs, safety, choice, information, consumer education, redressal, representation and healthy environment. The objectives of these guidelines are:\147:

a. To assist countries in achieving and maintaining adequate protection for their population as consumers,

b. To facilitate production and distribution patterns responsive to the needs and desires of consumers,

c. To encourage high level of ethical conduct for those engaged in the production and distribution of goods and services to consumers,

d. To assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers,

e. To facilitate the development of independent consumer groups,

f. To further international cooperation in the field of consumer protection,

g. To encourage the development of market conditions which provide consumers with greater choice at lower prices and

h. To promote suitable consumption

\147\ UN Guidelines for Consumer Protection, Resolution No 39/348, dated: 9th April, 1985, Clause 1
The actual specifications and the legitimate needs which these guidelines are intended to meet are\textsuperscript{148}:

a. The protection of consumers from hazards to their health and safety,

b. The promotion and protection of the economic interests of consumers,

c. Access of consumers to adequate information to enable them to make informed choices according to individual wishes and needs,

d. Consumer education, including education on the environmental, social and economic impacts of consumer choice,

e. Availability of effective consumer redress,

f. Freedom to form consumer and other relevant groups or organizations and the opportunity of such organizations to present their views in decision making processes affecting them and

g. Promotion of sustainable consumption patterns.

A perusal of the objectives of these Guidelines and the specifications there under, make it clear that there should be concrete consumer protection policies in each country to be adopted after due consideration of relevant factors applying modern research techniques. There should be adequate infrastructure to develop, implement and monitor these policies. Relevant laws and regulations should also be framed and followed by all the enterprises, national or multinational, conforming to the international standards because adoption of

\textsuperscript{148} UN Guidelines for Consumer Protection, Resolution No. 39/348, dated 9\textsuperscript{th} April, 1985, Clause 3
any appropriate policies or measures would necessarily include a consumer
friendly legal system\textsuperscript{149}.

The above mentioned objectives can not be attained without effective legal
system. The legal system of a country should, besides taking a note of general
consumer safety and advancement of economic interest of consumers, adopt
standards for quality of consumer goods and services and distribution. In case
of any harm or damage accessible, redressal mechanisms should be available to
them. Consumer education should be an integral part of the basic curriculum of
the education system imparting sufficient knowledge about health, nutrition,
food adulteration, prevention of food borne diseases, product hazards, labeling,
weights and measures, prices, and credit conditions\textsuperscript{150}.

Consumer movement spread all over the world at length and breadth due to the
initiative taken by the IOCU and United Nations. The main impetus to the
movement was given through revolutionary writings. Various countries
adopted different measures for the protection of interests of consumers. All the
nations in the world made suitable legislation to protect the interest, health and
safety of consumers according to the local needs. Efforts were also made by
voluntary organizations in different countries. At international level, IOCU is
playing a pivotal role in strengthening the consumer movement. It has

\textsuperscript{149} Supra note. 33 at 16
\textsuperscript{150} Id at 17
established the links with other countries and helps in coordination with their activities\textsuperscript{151}.

In this chapter the researcher discussed about the development of consumer protection at international level and its development through various international organisations like IOCU and United Nations. The present research is the functioning of redressal agencies in the State of Goa, which is part of Indian continent. Now let us verify the development of consumer movement in India.

\textsuperscript{151} Supra note. 108 at 18