The Philosophy and History of Consumer Protection with special reference to India.

Introduction:

The aim of this chapter is to introduce history and philosophy of consumer protection, its development and its concern etc. The chapter covers both English as well as Indian laws as most of the legislation in India has been borrowed from England. A brief history of some aspects of consumer protection in England and India will perhaps assist in the appreciation of the impact of consumer protection in the twentieth century.

Economical and Philosophical background of Consumer Protection will enlighten the torch of consumerism.

India has begun to recognise the need for a consumer movement. It continues to struggle to carve out a niche for itself in the Indian market. In the present economic and social scenario, the subject of consumer protection is of vital concern and importance for every citizen of the country as each one of them is a consumer in one form or other. The consumers do not constitute a separate class, everybody is included.
(2) The Philosophy of Consumerism

Consumerism is all-pervading. The real spirit for any developing economy is to develop products and marketing practices advocating consumerism. Consumerism is inevitable to safeguard the interest of consumers at large. As per the phrase of Ralph Nadar, consumerism means "quality of life". Consumerism is a social movement in transatlantic world to safeguard the rights and powers of the consumers at large in relation to sellers. Under consumerism the buyer wants improvement in the quality of products and introduction of fair marketing practices in order to increase span of life. The consumerists advocate that the world resources are limited, therefore, social values must be respected to promote peace and harmony between the sellers on the one hand and the buyers on the other.

The consumerism suggests the ways and means to improve the quality of life of the teeming millions by providing them unadulterated goods in the market place at reasonable price. Modern technology has produced goods in abundance and the consumer is at liberty to choose out of vast variety whatever he likes.

In our country there is economic discontent due to deteriorating capacity of the rupee. The effect of the economic conditions is more on the poor and the middle class people. The prevailing economic discontent needs change. Consumerism, law and its instrumentalities which can produce actionable solutions in economic growth of the country.
"Economy" is the philosophy underlying the consumer protection. "Pay and get the thing needed". To purchase the required product for money consideration is not adequate. The product must be of good quality and merchantable and fit for the purpose for which purchased.

The purchase must be Economical and worthy of value. Economists speak of the consumer being the king in a competitive society; consumer is a very important person in the economic set-up of a Country. It is appropriate to describe him as a V.I.P. and the consumer is favouring the businessmen by purchasing their products and services.

Mahatma Gandhi taught us the basic concept of consumer protection. He said:

"A customer is the most important visitor in our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an outsider on our business. He is a part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us an opportunity to do".

Adam Smith observes:

"Consumer is the sole end and purpose of all production, and the interest of the producer ought to be attended to only so..."
far as it may be necessary for promoting that of the consumer". 

"A sudden interest in the fundamental right of the consumer even in an economic state of relative affluence emerged with the one-man crusade of Ralph-Nader against the mighty automobile industry."

"The preamble of the Indian Constitution lays stress, interalia, on socio-economic justice. Article 39(1) of the constitution imposes duty on the state*, to promote the welfare of the people, by securing and protecting "a social order in which justice, social, economic and political, shall inform all the institutions of the national life".

Under Clauses (b) and (c) of article 39 of our Constitution the State is duty bound to direct its policy towards securing the distribution of the ownership and control of the material resources of the community in such a way as "to subserve the common good" and the operation of the economic system which "does not result in the concentration of wealth and means of production to common detriment". It is, therefore, evident that consumer protection is one of the constitutional duties imposed on the State, for the protection of the consumers from the manipulative economics indulged in by the big and ruthless trade business is necessary to promote the welfare of the people and the common good.

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1 Consumer Protection and Legal Control - By P. Leelakrishnan Page No. 44.
2 Consumer Protection and Legal Control - By P. Leelakrishnan Page No. 59.
3 Consumer Protection and Legal Control - By P. Leelakrishnan Page No. 60.
As Mr. Moore, emphasises in his book, "How to Handle Customer Complaints", that the most important people in any business must be customers. Without the customers there would be no sales. Without sales there would be no product. Without the product there would be no staff. Without the staff there would be no senior management, no directors and no chairman.

Without the customers to provide the foundations of this pyramid there would be no dividend for the shareholders.

Sidney Weinberg in his excellent book, "Profit through quality" has shown that in many sectors of British industry it has been conclusively proved that supply of quality products retains existing customers and gains new ones, that customers can be persuaded to pay more for demonstrably better products and that introduction of activities which lead to greater quality and reliability results in greater productivity.

Japan learnt this lesson three decades ago to become the world's toughest business competitor. Before that, the words "Made in Japan" were synonymous with shoddy workmanship. But now manufacturers like Sony, Daewoo, Honda, Hitachi and Matsushita sell their products mainly on the basis of high quality. In Japanese factories, the workers and their supervisors are expected to make quality control their top priority. At Matsushita Electric, the workers are encouraged to consider everyone of themselves a quality control inspector. If they detect a faulty

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item in the process of production, they are supposed to shut down the entire assembly line to mend it. The Deming quality control award is the most coveted prize among Japanese firms. It is named after the statistician W. Edwards Deming who have a lecture in Tokyo in 1950 on the virtues of quality control as a manufacturing the interest of the producer aught to be attended to, only so far as it may be necessary for promoting that of the consumer.

Ordinarily, every person is a consumer because he uses or consumes economic goods and services. A person is not only a consumer when he buys and uses groceries or automobiles or cloths but he is also a consumer when he makes use of educational opportunities offered in a school or obtain legal advice from a lawyer, medical services from his physician, or a hair cut from his barber. The retail merchant himself is a consumer when he buys food, recreation and other things for himself and his family. Therefore, a consumer is any person who engages in the process of spending money and using economic goods and services. A person who purchases otherwise e.g. for the purpose of manufacture or resale, he is not consumer. The term 'consumer' is equated with the term 'citizen'. In this connection it is said that the consumer interest is involved when technique and overnight became an industrial folk hero in Japan.

Consumerism is the social force or movement seeking to augment the rights of the buyers in relations to the sellers, can be of much use in maintaining the business ideologies.

Consumerism as a social movement intended to safeguard the interests of buyer through various social control measures. This will create a consciousness in the society which would guarantee a new force to reject the role of "Caveat Emptor" and pave the way for the acceptance of the theory of "Caveat Venditar" (Let the seller beware) in the larger interest of co-ordinated economic growth.

In our democratic society where the Government is fundamentally a service organisation created by the people through our elected representatives we determine what services will be provided by the Government. Here, consumer is affected from both the Government organisation as well as private organisation and consumption being the sole end and purpose of all productions. Citizens enter exchange relationship with institutions like hospitals, libraries, police forces and various Government agencies, as well as with private enterprises. The fibre of a just society in pursuit of happiness is a thinking active citizenry. Consumer is a natural person, who seeks or acquires goods, services or money for personal, family or household use.

To protect the consumer interest from the invasion of black-marketing, underweight, overpricing, overcharging, false advertisements, misuse of trade mark and patent, non-labelling and mislabelling, duplications, common flagging and libeorise, it is most essential that certain minimum standards be prescribed for such articles of human consumption and a strict vigilance be kept at the places of manufacture and sale of them through quality control.

1 Consumer Protection - By A.K. Sen Page No.22.
Thus one should not be deceived so as to make him unable to understand his legal rights.

The concept of consumer protection in terms of consumer market ensures the consumer:

1. to get the thing of the standards what he demands for his payment.

2. that the thing supplied to him be reasonably fit for purpose.

3. to be protected of his legal rights if he has been defrauded in supply of the things he demanded and paid for.

4. that the State shall punish the offender because such nefarious activities of the offender are heinous crimes against consumer society.

5. that he would get appropriate compensation also from the court.

Protection of consumer interests is his constitutional right. The preamble of our constitution stresses over the justice which means giving to every person what due is to him in the society. Consumer justice is a part of the social and economic justice as enshrined in the Preamble of our Constitution. The consumer justice may imply securing to the consumer commodities or services equivalent to the payment made by him without violating commercially or legally prescribed or impliedly agreed or understood quantity and standard.

1 Consumers, Crimes and the Law - By H.M. Girii. Page No. 5 to 6 & 8.
Offences against consumers are also known as social welfare offences and sometimes white collar crimes or socio-economic crimes. To combat the socio-economic offences or the offences against the consumer society, special courts are necessary to be established. Restrictions on monopolistic trade practices also protect consumers interest. The dominant theme of the Act is to protect public interest. Social justice requires to protect consumers from the unscrupulous traders, dishonest manufacturers and the dealers from malpractices like, hoarding, black marketing and the like. In order to achieve the goal of social justice Roscoe Pound in his classification of social interest under six heads, public health i.e. consumer protection has been put at first in number.  

"Absence of voluntary business correctives leads to consumer legislation ". In the first half of this century, for many years, it was generally assumed by the public that any one who made a good living in business and in sales had to be dishonest. At present that assumption is no longer automatic and it is now thought that even in business, particularly in foreign trade, honesty is the best policy. Legislation alone can not guarantee consumer protection. Role of business in promoting honesty and other moral values must be stressed so that self regulation by business can alone offer consumer protection. Consumerism and legislation enter the business world only when business adopts unfair and restrictive trade practices. Legislation helps everyone to know exactly the nature of dishonesty.

1 Consumer, Crimes & the Law - By H.N.Giri, Page No.38.
But complete elimination of dishonesty is impossible as long as there are people who are willing to break the law. A law becomes a challenge to some people. For honest people self-regulation works well and legislation is superfluous. The law helps those who help themselves. Hence, consumerism is necessary. Consensus of opinion can be served through an effective co-operation among consumers, business and Government and a broad consumer education programme.

Consumer satisfaction is the ultimate aim of all economic activity and consumers are the largest economic group who are affected by public and private economic decision.

Under a competitive market economy, we must have a fair balance between the interest of consumers and industry and commerce. In order to achieve harmonious buyer-seller relations in the market place, a certain amount of governmental intervention, properly implemented is necessary to prevent possible abuse of consumer interest.

Consumerism gives new emphasis to the consumer's bill of rights - the Magna Carta of Consumers. Consumerism involves the actions of individual and organisations in response to consumers' dissatisfaction arising from exchange relationships. Consumerism is an attempt to preserve the free enterprise economy by making the market work better. Consumer can be protected if he desires protection. God helps those who help themselves. This is true even in our economic life. The consumer organisation becomes the spokesman of consumer.
"The consumer must find a substitute for the direct action of the market place, as price-mechanism fails to protect him". Importance of the consumer to the business has yet to be realised fully. Business makes profit only when goods are consumed or services utilised. This presupposes consumer existence. Business is entirely dependent on the consumer not only for its very survival but also for its growth.

In general consumers are scattered over the whole country. They are highly disorganised. Individually, they have very weak bargaining power. They are not professional or shrewd buyers. In India, they have an additional handicap, namely, majority of consumers are illiterate, ignorant and usually lack information to make intelligent purchases. But consumer education assumes considerable importance in evolving a favourable climate for exercising the sovereign right to grumble, right to protest, right to demand justice and fair trade practices.

We have monuments to the unknown soldier, statues for martyrs, tablets for freedom fighters. But so far in no country there is a single memorial for the conveniently forgotten person and the victim of our society - the poor and helpless consumer. 1

In economics, it is said that the act of production is not complete until the commodity is in the hands of the ultimate consumer. In a free market economy, it is said that consumer is the king. He communicates his decision or wish through price, every rupee representing a ballot paper and the price is the prime regulator of our economic life. He rules the economy through

1 Trade Practices and Consumerism - By S.A. Sherlekar, Page No. 299, 300 & 301.
pricing. He brings about the so called optimum allocation of scarce economic resources through the all powerfull mechanism of pricing governed by the impersonal and, therefore, impartial general relations of demand and supply.

In reality, consumer is not a king. He is a prince without a privy purse. He pays more and earns less in real terms. He is the one to suffer most from acute shortages of essential commodities. He is the one who is often cheated and fleeced—even given shoddy and adulterated goods. By and large, during the last 30 years the consumer in India has been a victim of Central Government's various policies. It resorted to enhancing from time to time excise duties and commodity taxes which heavily leaned on the consumer. Indirect taxes hit the consumers most particularly when they can be easily transferred to consumers in the form of price rise. In the seller's market, the producer can do so without any danger of reduction in demand. Heavy investment in capital goods industry and the neglect of consumer goods industry led to an era of scarcity, rising prices and misery for the consumer. Extraordinary finance for financing huge projects under planned economy was secured through deficit financing. Of all the taxes perhaps, inflation is the most ruthless and its impact on the low-income consumer is probably the highest. Above all, extraordinary growth of population (around 800 million by 1988) in India further complicates the problem of distribution.
However, consumer needs protection, seeks advice and information, when his rights are adversely affected. The shift from buyer beware to seller beware has increased the role of Government in promoting the consumer's right to safety, right to be informed, the right to choose, the right to be heard, the right to redress and right to represent.

President John F. Kennedy, in 1962, in his consumer message, summed-up these rights of consumers and paved the way for organised consumerism in the U.S.A. and all over the world. Consumer movement wants businessmen to be aware of basic consumer rights and honour them in the market place.

As the United Kingdom in common with the U.S.A. Australia, Canada and other jurisdiction having similar systems as in India of consumer protection are likely to have mixed rather than centrally directed economics for the foreseeable future. Our conclusion must be that the need for consumer protection in such as economy is part of its nature. A completely unregulated laissez-faire system is unacceptable as is a centrally directed one, and a pragmatic compromise is to compensate for the inequalities of bargaining power and technological expertise by giving the private consumer protection in specific areas by legislation.

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Ralph Nader declared the new consumer movement of today is the meeting place of the middle class desirous of careful tests and rational purchasing. Indian people should take forward consumerism as a social movement to oppose the rising prices of all commodities. There is great necessity of a machinery to protest against the unchecked price spiral and checks against the injurious commodities. Consumer movement needs new institutions to function and to safeguard the rights of the power-less consumers. This new institutions will create an equilibrium between the rights of buyers and sellers as well as producers and manufacturers. The concept of consumerism advocating not only protection of the rights of buyers and duties of sellers but advocating for the supply of fit drinking water, pollutionless air, security in the streets, efficient communication system, employment oriented education, adequate health care etc of which consumers are parts and parcels.

In India, consumerism is yet to take birth and become people's movement. It is rightly said:

India, a great nation whose ancient philosophers once showed the road to salvation, fails to remain unaffected by this trend. "Development", urbanisation and a twentieth century illusion, "hedonism leads to happiness" are creating a new culture. Consumerism is the order of the day. Consumerism is essentially an attitude towards life and the world. 1

1 Avijit Pathak, "Consumerism and the Younger Generation", Hindustan Times dated 23-6-95 at P.5 (Magazine).
For many countries, it has been appropriate to protect the consumer against fraudulent or dangerous practices. This reflects a moral and regional ethics and is an appropriate function of the criminal law. In consumer transactions unfair practices are widespread. Consumer protection is the problem of claiming compensation against the large producer where the goods or services are defective. The problem of exploitation of the people by the people or even by the government is not new. The plight of the consumer is worse confounded because of his ignorance, illiteracy and weak economic position. Under the social conditions in which the average Indian citizen survives, he needs and requires to be protected from activities that are social evils like corruption, bribery, maladministration, ill treatment, underpayment, exploitation, unhealthy and unhygienic working conditions, adulteration, spurious and injurious manufacturers, black marketing and price like, overcharging, misguidance by false advertisements, mislabelling and mislabelling, duplications and similar other deceitful market practices.

Protection against the sale and supply of bad, substandard and duplicate consumer products in the market, non-supply and short supply of consumer goods, excessive pricing. Consumer protection under the law will have to think afresh the problem of food adulteration, electricity, water, transport and housing to ensure minimum health and comfort to the consumer.
Prevention on pollution specifically includes the clean air and water and prevention of excessive noise. It is necessary to promote the quality of housing construction and regulation of construction of buildings so as to protect the safety and health of the occupants. It is also necessary to deal with some aspects of public safety viz. control of explosives, fire arms and dangerous drugs and sale of poison.

The consumers are to be protected against above all evils as everyone is customer, we all are customers in transactions or the other. Without customer wheel of commerce will not go round. A business exists for the consumer. Consumer is the sole end and purpose of all production.

As the consumers are sovereign must be protected.
The Concept of Market Place

The market is more technologically sophisticated, organised place. According to "Ralph Nader", market is the meeting place of the middle class desirous of careful tests and rational purchasing, the Blacks desirous of redressing consumer grievances and freedom from economic exploitation by merchants and of conservatives feeling concern about the waste of resources and bad social department of corporate business.¹

Under the concept sellers are at liberty to produce any commodity in any manner and style to push them into market place, if they are not injurious to public health and safety. It is within the right of the sellers to formulate any scheme to push their products in the market place provided they are not unfair and misleading in contents and as well as in execution. In the same manner, buyers have the traditional right not to purchase any product that is put before them. The buyers accept that the product must not be injurious to health at any cost. The product which the buyers buy, should be the same as it is shown to them. However, "the consumer is at the mercy of business in the market place." He can choose or not to choose to purchase a particular product that is his only option. He is the sovereign in the market.

¹ Colston E. Warne "The Impact of Consumerism on the Market" P.35.
Due to technological advancement and continuing change in standard of living of the people, the problems of consumer protection have gone into various dimensions. The consumers' difficulty in market place has continuously been recognized by the consumerists, public, political spokesman and the Central and State Governments from time to time. The concept of consumers sovereignty remains a myth and the consumers do not have an effective voice in the present marketing set-up.

The economy of any nation rests mainly on the consumers' ability to respond to the fluctuations in the market. The consumer exercises economic vote every time he buys. The consumer often becomes a victim to the market techniques of the producer who try to strengthen their position through modern market devices.

Advertising

Advertising occupies a very significant place in contemporary market place economy. As we see the same on T.V. and video movie. Modern advertising techniques are having maximum reactions from the consumer. These advertising techniques have been playing a large and effective role in promoting the sale of products irrespective of their qualities. These advertising techniques influence the consumer in the purchase decision and they force the consumer to buy what is talked about the product which the manufacturer is selling in the market. The manufacturer having monopolistic position in producing the commodity has a smooth sailing in marketing the product through modern advertising techniques. Through the advertising techniques sellers are able to push their commodities irrespective of the quality and
The problems of consumer in the market place are directly linked with the retail system in existence in the country. The retailing system in the country has not improved much by the opening of super-markets or super-bazars in India, recently.

**Fraud**

Fraud on consumer poses a great challenge to the law. The concept of consumer fraud is inclusive of deception, suppression of facts and essential information for arriving at a correct decision by the consumers at large.

Consumer fraud adversely affects the market place allocation of economic resources by causing a consumer to purchase a product or service different from that which he believes he is getting. Single instances of consumer fraud are of little social or economic concern, but in totality these instances create a problem of significant importance to our economy.¹

The consumer fraud is related with the products and services contracted and paid for which are simply not supplied or products and services supplied but found for one reason or another - unsatisfactory.

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¹ Notes, "State Consumer Protection" - A proposal 53.

Iowa L Revised 710 (1967)
If the contract is made in connection with the lease, sale, rental services, loan of consumer goods or services or the offering for sale, lease, rental or loan of consumer goods or services and are negatived in one way or the other, all these will constitute the consumer fraud. An attempt has been made to curb such unfair trade practices by the MRTP Act 1984.
**Conclusion**

Now Supreme Court and High Courts are furthering consumers' interest. The consumer protection law is capable of developing consumer values and strong movement. There is need to develop sociology of consumer protection in order to boost the consumer's field of legal, political, economic and other modes of normative disciplines thought to widen the concerns of these disciplines so as to develop a consumer sovereignty. Consumer sovereignty depends upon consumer vigilance, wakefulness, co-operation, continuous struggle and in the end, by consumer constitutional revolution.
Early consumer protection machinery was closely linked to the then existing units of local government. The primary units of pre-nineteenth century local government were the country and the parish. The hierarchy of government would have been expressed as being the king in parliament and locally the official dignitaries of the country the Lord Lieutenant, the High Sheriff and the Justices of the Peace. The function of the Justices of the peace, as developed in the thirteenth and fourteenth centuries, were both judicial and administrative. In the sixteenth centuries, their duties and jurisdiction were increased by giving them supervisory jurisdiction over the parish with regard to bridges and highways, and a little later, the poor law paving, lighting and cleaning of streets.
Outside this general scheme were the borough and the manor. A town which had secured its character of incorporation and become a borough appointed its own justices and operated its own analogous system of land tenure. As the royal courts established in England to offer more efficient system of justice, manorial courts declined, but the manorial court had a persistent and important role in the main regulatory function of local government in the seventeenth century and beyond the supervision of trading standards and the suppression of local nuisances. So, to summarise, the courts exercising functions which we would now associate with "Consumer Protection" and "Public Health" were primarily the petty sessional courts of the justices of the peace and the Manorial Courts Leet, whose jurisdiction was in practice concurrent.

The concept of consumer protection to the thinking person throughout the eighteenth century at least, would mean (a) protection from excessive prices levied on primary commodities and (b) protection from short measure, protection from common nuisances involving misuses of homes, streets and bridges is a separate area of activity which must be investigated by the Historian of public health.

Bread, beer, meat and fuel were singled out from earliest times as being commodities which the crown through the justices or other local courts should regulate both as to quantity and quality. As to bread, a statute of 1709 recites that the existing law is so obscure that "little or no observance had been made either in due assize or reasonable price of bread and covetous and evil disposed persons have for their own gain
and temptation deceived and oppressed. Her Majesty's subject." The justice of the peace or the Mayors of boroughs were therefore empowered to fix the weight and price of bread and bakers had to make their loaves with their size and quality. The price was to be fixed by reference to current market prices of grain, meal or flour setting the "assize of bread" remained the function of the Mayors or Justices, together with the abolition of the assize in 1836 on the adoption of Adam Smith's principle that competition was the best regulator of these matters.

A somewhat similar system prevailed as regards the pricing, weighing and marking of coal from 1664. As regards the ale both the justices of the peace and the courts leet exercised jurisdiction over the price and measure of ale. This involved setting the price and ensuring that vessels made of wood, earth, glass, horn, leather, or some other good and wholesome metal, should be made and sized and stamped or marked as a quart or print (the half pint being nowhere mentioned perhaps on the basis de minimis non curate lex). There is a reference in Shakespeare's Taming of the shrew to Christopher Sly who is told that he would "rail upon the Hostess of the house and say you would present her at the leet. Because she brought stone jugs and no sealed quarts".

The court Leet's contribution to the assessment of the ale and beer was made largely through the investigations of its officer styled an aleconner. The aleconner is one of the direct ancestors of the modern weights and measures inspector, though his job was perhaps more interesting in one respect in that he was under a duty to undertake spot checks of the quality of ale
by testing. His duties all officially described in a contemporary record, were to examine bread, weights, measures, ale and beer for sale and to return such as offend against the assize or standard or vend unwholesome liquor." The aleconner was in fact one of many officials that a larger court Leet might appoint, the others might include constables, market lookers, the searchers and scalers of leather, the peck-sealers, the town-crier, the town-scavangers, dogmuzzlers, clerks of the wheat, fish and butchery markets.

Courts Leet were the manorial criminal courts established by an actual or presumed grant. The steward who presided over them was normally a lawyer and could punish by fine (called "amercement") or even by imprisonment if the fine was unpaid. An important and lucrative feature was that, all fines imposed belonged to the Lord or the steward. Whilst their quasi-criminal functions have been abolished, they still retain the right preserved by section 24 of Administration of Justice Act 1977 and transact such business as was customary before the passing of that Act. Some of which is specified out in the Fourth Schedule of the Act. Here are a few examples, taken from the contemporary record of the Court Leet of the Savoy indicating the type of offences concerned with weights and measures and "unfair trading" dealt with.

"Upon the return of the flesh-tasters, Mr. Harrison, butcher, for exposing to sale fleshment not fit for Christians to eat and refusing to move the same, amerced 5 shillings" (1761).

"Nicholas Baker amerced 3 shillings for vending and selling stinking and corrupt unwholesome pigeons" (1694).
"Mary James, her weights being too light amerced 5 shillings" (1689).

"Richardon amerced £ 20 for selling coal in sacks that want net 3 inches in length and near 2 inches in breath of the standard or assize by law directed" (1735).

References in the above records to being too light or sacks of coal being too short of the standard or assize by law directed, remind us of the necessity of having constants by which weighing and measuring may accurately be assessed wherever the exercise is undertaken. For the need for accurate and widely understood weights and measures is as old as governments. "Without it there can be no civilisation and no society but the primordial. It is the first essential tool of material creation and the private and public economy are its dependants". 1

The law and the administration designed to enforce it have for many years aimed at (1) Standardisation of weights and measures (2) Control over the accuracy of the equipment used for weighing and measuring by traders, and (3) the protection of the consumer against short weight or short measure.

The search for a standard weight and measures has been a long one. The early inclination to measure weight by what

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1. O8 Keefe Law of Weights & Measures (2nd Edn) which contains an excellent and detailed history not only of the law but of the emergence of weighing and measuring machinery.
A person could lift quantities by grains of wheat and a measure by parts of the body, particularly the foot, led to many attempts of standardisation. Weight was essential for measuring gold and silver coins and bullion. By the reign of Henry VII the troy pound (of Mediterranean trade coutre origin) ounce and penny weight were established for silver, gold and some commodities. The main alternative system was avoirdupois, the pound consisting of 16 troy ounces or 7680 grains. Wool had its own weight system. Sets of weights were kept at the King's Treasury. Length measurements were equally slowly standardised. Edward I enacted in 1305 that "3 grains of barley, dry and round make in inch, 12 inches make a foot, 3 feet make an Ulma' Latin for 'elbow', later called a yard"). Again the monarchs kept measuring rods in their treasuries to set these standards. The year rod of Elizabeth I being the primary standard untill 1824. Measurement of capacity were also crude and lacked uniformity. Measures such as gallons and paints were defined by the troy weight of the contents of the vessel containing threshed wheat which varied with temperature and crop. In 1824 Imperial measurements were adopted, the Imperial Troy pound being 5,760 grains and the avoirdupois pound weighting 7,000 troy grains. The ounce was 1/16 of a pound and dram 1/16 of an ounce. A verified brass avoirdupois pound was constructed and deposited at the Treasury. Later in 1955 the Imperial standard pound avoirdupois of 7,000 grains was declared to be the only standard measure of weight. The Imperial gallons was standardised in 1824 by refernce to ten pounds avoirdupois of distilled water weighed in air. The growth of science and technology has since required far more accurate measures. The metre is now defined
as 16,50,763.73 or gauge rod krypton wavelengths, and the yard is 0.9144 metres exactly. The four primary standards set out in Section 2 of the weights and measures Act 1963 (Yard, Pound, Metre and Kilogramme) are in the custody of the National Physical Laboratory.

Of the two great measuring systems, the Imperial and the Metric, it is the latter with its more easily understood subdivision of weights and measures which is likely to gain almost universal acceptance. Introduced into France by the Revolutionary Government of 1799 it spread throughout continental Europe, Russia, Japan, China and most other non-English speaking countries. The United Kingdom legalised the use of metric tons in contracts in 1864 and by the weights and measures (Metric System) Act 1897 made metric weights and measures lawful in trade as an alternative to the Imperial system. Impetus towards metrification in the United Kingdom was added by the accession to the European Communities. The Weights and Measures Act, 1976 gives power to the Secretary of State by order to prohibit unauthorised Imperial Units of weights and measures pursuant to the metrification policy of an under obligations imposed by the EEC Units of Measurement Directive 71/354 as amended by 76/770, discussed further in chapter 13 (A new section 9A is inserted into the 1963 Act, by the 1976 Act, which specifies units of measurement lawful for use in trade).

The statutory to enforce uniformity in weights and measures also have a long history. There is a reference to uniformity of measures of wine, ale, corn and cloth in Magna Carta in 1215. The assize of bread and ale of 1266 laid down
a scheme to control the amount of bread or ale obtainable for farthing or penny respectively, depending on the current price of wheat, barely or oats. Short weight or quantity was punishable by a fine or in more serious cases flogging or pillory. The attempt to control the weight of bread obtainable for a specified price continued until the Bread Act 1836 which required bread to be unadulterated and sold by weight. There were similar attempts to control the sale of almost all primary commodities of everyday life (particularly grain, cloth, wine, cheese, fish, honey, coal, salt and butter) in many cases dating from the fourteenth or fifteenth centuries. The vital step of penalising those using unjust balances was taken in the middle of the fourteenth century, town having common balances and weights in the custody of the Mayor and Constable, but enforcement was sporadic. Excommunication after the Archbishop of Canterbury's promulgated anathema in 1428 if unequal-armed balances were used seemed to prove the most efficacious device.

A modern text book¹ has demonstrated that the judiciary of the United States has been a long way ahead of this country in recognising and dealing with consumer problem. In particular, the American Courts have increased the manufacturer's liability in two respects (1) by moving from negligence liability to strict liability and (2) by breaking the shackles of the privity of contract rule.

The subject of consumer protection is also very much alive in the EEC and other Western Countries. There are a very large

¹. Miller & Lovell, Product Liability.
number of bodies concerned with consumer protection matters and they can be divided into Government Departments. Government sponsored bodies, local authorities and voluntary bodies.

Like many other countries in Europe, North America and elsewhere, the 1960's were the beginning of a period of substantial development in Britain in the field of consumer protection. With the aim of seeking to redress the natural imbalance of power between the ordinary person and the business provider of goods and services and trying to prevent the worst kinds of trading abuses, Governments of different political colours sought to alter both the civil law and the criminal law and to create new institutions and procedures to ensure that the changes were made effective. Valuable source material for the kind of changes that seemed to be needed was to be found in the report in 1962 of a committee usually known as the Molony Committee, after its chairman the late Sir Joseph Molony Q. C. which reviewed the law relating to safety standards, labelling, advertising, civil redress and other aspects of consumer protection. Another Government Committee Report, dealing with the subject of consumer credit, published in 1971, and a number of proposals of the English and Scottish Law Commissions were also to a large extent implemented by Government and Parliament. The development of consumer law was very much a period of advance by statute rather than case law and more by way of criminal law and administrative controls than through civil law.  

During the main period of advance in consumer protection in the 1960's and 1970's, the common law did not contribute very much. Yet the foundations of consumer protection, the laying of a firm basis of obligations and owned by traders to their customers, had been put down by the courts of earlier times. And there are some signs now once more in the 1980's that the courts are again showing their muscle. In the past certainly, judges contributed a great deal, specifying, for example, the basic obligations on the trader who sold goods, that they must be of merchantable quality and reasonably fit for their purpose and the basic obligation on traders who provided services that they must carry out their work in a proper and workmanlike manner.

Consumer movement had its origin in the Western industrialised countries to secure acceptance of the principle that a customer has a right to demand goods that he needs and of standard quality and reliability. It was a protest against unfair, unsafe and misleading business practices and insensitivity of some manufacturers to consumer needs. With the emergence of advocates for the consumers' and government's willingness to intervene it gained momentum. The movement became a social force for protecting individuals rights as consumers.

Organised movement for protection of consumers first took shape in the United States, the land of free markets and minimum state control. In 1936 consumers Union of the United States was established to put pressure on manufacturers to provide customer satisfaction through improvement in quality and

dependability of their products. The Union took up investigations and tests of various widely used products and published results in their monthly magazine, "Consumer Report".

The current consumer movement in the USA owes much to the activities of Ralph Nader a 49 year old lawyer, who published his book in 1955, "Unsafe At Any Speed" unknown to the public prior to the said book published.

In 1969, Nader founded an organisation, the centre for the study of Responsive Law. In 1972 Nader established an organisation 'Public Citizen' an umbrella group which supports four other Nader organisation : (1) The Citizen Action Group to protect the consumer by exerting moral and economic pressure on business. (2) The Congress Watch, a full time lobbying office to push for Federal legislation to protect consumers' interest (3) The Public Citizen Litigation Group set up with a staff of a dozen lawyers to act in legal suits for consumers and (4) The Health Research Group, which studies and researches health issues such as unnecessary surgery hospital management, nutrition, drugs, pesticides and carcinogens.

In Great Britain the consumer movement began to gather momentum during the years allowing the second world war through voluntary action mostly by women's organisations. 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

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pamphlet "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. It was this development that compelled the government to appoint the Molony Committee to report on what changes in the law were desirable "for further protection of the consuming public" and to make recommendations, interalia for more and more standards of safety, quality and performance.

On the basis of the report of the Molony Committee the government appointed a consumers' council in 1963. Today there is a Ministry for Consumer Protection in Great Britain which looks after the consumer interest in a systematic manner. In the place of the old slogan "let the buyer beware" the new slogan is "let the seller beware".

Among the Asian Countries Japan has demonstrated how a consumer revolution can take place alongwith rapid economic development and the emergence of a mass consumption society. After a series of administrative and legislative measures during the fifties for the protection of the consumer in 1968, the basic law for the protection of the consumer was clarified and a commission for the protection of the consumer was

established as an organ directly responsible to the Prime Minister. In Japan consumer protection is not confined to the National Government alone. It is the responsibility of all municipalities and other local governments. For example, the Tokyo Municipality set up in 1961 a consumption economy section and this example was emulated by other local bodies, side by side with the legislative measures, a large number of voluntary consumer organisations have also sprung up devoting increasing attention to the other aspects, namely, information, education, guidance and stronger organisation of consumers.

In recent years, the view of consumers' protection have taken place in Newzealand, where the influence of the consumers' movement is reflected not only in legislation but also in the organisation of consumers. In 1959 a Consumers' Council was established under the Ministry of Industry and Commerce. By 1966 to the council was added a consumers' Institute. The council invites the public to become subscribing members of the Institute. In 1966 the Institute had a membership of 55253 and by 1971 it rose to 77024.

The Institute's principal aim is to educate the public of the relative advantages and disadvantages of the different available brands or models of products and make clear which would give the majority of consumers the best value of money. The findings of the tests are communicated to the manufacturers concerned and the result has been effected by the manufacturers themselves. The Institute also publishes useful literature.

Similar movements have in the last two decades particularly grown in Australia and Europe. Among the European countries Sweden has perhaps made the greatest progress in protecting the interests of the consumer. There, since the early fifties three institutions of great significance have been functioning for consumer protection. These are the National Institute of Consumer Information, Ministry for Consumer Welfare and State-financed Consumer Council.

**INDIAN SCENE**

The consumer movement is still in its infancy in India.

The consumerism is as old as any law. Its roots are deep, lacking flourishing. It has been mentioned even in "Kautilya's Arthshastra that Allaudin Khilji, the then emperor was strict in observance of laws. If a cloth merchant measured short of cloths than asked for by a consumer, the merchant had to accomplish the shortage by way of giving his own skin from his body and in case of short weight the shopkeepers were forced to make up the deficiency from flesh chopping from their bodies."

The consumer movement in India is yet to make the grade but it is gathering momentum. The first stirrings of an organised movement came with the formation of the consumers Action Forum in Calcutta in 1973. It was established at the initiative of Women's Co-ordinating Council, Calcutta, with Shrimati Renuka Roy, a veteran social worker and former minister

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of West Bengal as its President. It originated in a meeting at Lake Town in the suburb of Calcutta, held to protest against adulteration of mustard oil with furnace oil causing paralysis and death in nearby dun dun area.

The consumer movement in India gained impetus with the formation of the consumer education and Research Centre at Ahmedabad. The founder of this organisation is Shri Manubhai Shah, a retired General Manager of a textile mill in Ahmedabad. His famous case was against Ahmedabad Telephone.

An important landmark in the consumer movement in India was the establishment of the Council for Business Practices at Bombay, at the initiative of the noted industrialist Shri Rama-krishna Bajaj. The council has drawn up a code of conduct which enjoins on all businessmen to charge only fair and reasonable prices, not to indulge in hoarding and profiteering in times of scarcity, not to trade in spurious or sub-standard goods, to maintain accuracy in weights and measures and not to publish misleading advertisements.

A heartening development has been the strong support extended to the consumer movement by the Federation of Indian Chambers of Commerce and Industry. On more than one occasion its residents and other office bearers have called upon the trade and industry to ensure fair practices in the larger interests of the Nation and of their own. FICCI underlined the need to build consumer forums at the national, State and local levels and asked all businessmen to take active interest therein.

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Government of India had taken some positive steps in the past few years, under the late Prime Minister Indira Gandhi's Twenty Point Programme, to promote a strong consumer movement.

Recently, the Government of India has urged the State Governments to set-up Departments of Consumer Affairs to encourage people to organise themselves into effective consumer groups.

The consumer movement may be described as the organisations, activities and attitudes of consumers in their relation to the distribution of goods and services i.e. in exchange relationship between buyers and sellers.

Consumer movement gives new emphasis to the consumer's bill of rights. The Magna Carta of consumers.

The consumer guidance Society, a voluntary, non-profit, non-political organisation, was established in India in 1966 by nine housewives and a few social workers, who were deeply conscious of the need for a consumer organisation to protect, promote and serve the consumer interest and to unite the Indian Consumers in a strong enduring consumer movement. Its motto is quality at fair price.

Consumer parliament or grahak panchayat in Poone consist of six thousand families. They undertake procurement of food grains, vegetables and even cloth directly from producers. This assures reasonable prices and quality as well. This may be a drop in the ocean, but drop by drop you will have a big lake.

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The Movement of Grahak Panchayat started in Poone under the Yuvak Maha Mandal, led by Shri Bindu Madhav Joshi.

Janata Grahak Mahasangh started its activities in Bombay in April 1975. Each Grahak Sangh once in a month gives its requisition to the Mahasangh. The demand is thus pooled and all purchases are made centrally by the Mahasangh, and it forwards the supplies for distribution to each of the eighty buying clubs.

Recently, a consumer market, with self-service was inaugurated in Poone. It sells about 200 items of daily necessity. There are separate departments for selling these goods. These consumer organisations operate in "no-profit-no-loss" basis.

Going through the above narrations it is viewed certainly that in India consumer movement started gradually with good gadget, enabling Government to enact adequate enactments to strengthen the consumer movement and safeguards the interest of consumers.

Among the important ones of the Indian laws which have a direct bearing on the consumer protection, I may mention the Drug Control Act, 1950 under which the sales, supply and distribution of drugs is controlled by the Government and the maximum price which may be charged for the drugs is also fixed by the Government. Then there is the Drugs and Cosmetics Act 1940 under which a licence to manufacture or sell any of the articles

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mentioned in that Act is obligatory. Under the Drugs and Magic Remedies (objectionable Advertisements) Act, 1954 advertisements of Drugs for certain diseases like blindness, heart disease, paralysis, epilepsy, leucoderma, obesity etc. is prohibited. Similarly advertisements of magic remedies like talisman, mantra, kavacha, and charms for prevention, mitigation treatment or cure of diseases are also prohibited under this Act. The Dangerous Drugs Act, 1980 controls misuse of habit forming drugs like morphine and opium. Inter-State movement of narcotic drugs is also regulated. The prevention of Food Adulteration Act, 1954 protects the consumers from the hazards of food adulteration. The Monopolies and Restrictive Trade Practices Act 1969 tries to regulate monopolistic and restrictive trade practices and thereby tries to protect the public interests.

Coming now to the legislation with which the Ministry of Civil Supplies is directly concerned, there is the Indian Standards Institution (Certification Marks) Act, 1952, under which the Indian Standards Institution has formulated a number of standards for food stuffs, drugs, cosmetics, utensils, textiles, electric appliances, furniture, sports goods, paints, carpets, detergents and many other products. The grading and marking of commodities like vegetable oil, ghee, butter, eggs, fruits and vegetables, pulses, chillies, jaggery and spices are regulated by the AGMARK, which comes within the purview of the agricultural produce grading and Marking Act 1957. The Standards of Weights and Measures Act 1976 together with the Standards of Weights and Measures (Packaged Commodities) Rules 1977 make it necessary that name and address of manufacture/packer, name of
commodity, net quantity, month and year of manufacture and 
sale price of commodity should be specified on the package. 
The Essential Commodities Act, 1955 provides for control of 
production, supply and distribution of essential commodities. 
Incidently, the list of essential commodities included items 
like, coal, petroleum, sugar, cement, kerosene oil, foodgrains, 
vegetable oils, soaps and matches. Control orders have been 
issued in respect of all these commodities and the State 
Governments have been delegated powers to ensure that the 
dealers display price lists, stock position and also issue 
cash memo. The prevention of Blackmarketing and Maintenance 
of Supplies of Essential Commodities Act, 1980 provides for 
detention of any person with a view to prevention of black 
marketing and maintenance of supplies of commodities essential 
to the community. The Essential Services Maintenance Act, 1968 
authorises the Central Government to prohibit strikes in 
essential services like posts, and Telegraphs, Telephones and 
Defence Establishments and provides for penalties for persons 
participating in or instigating/financing such strikes. The 
Trade and Merchandise Marks Act, 1958 provides for the 
registration and better protection of trade marks and thereby 
tries to protect the consumers from the use of false trade marks. 
The Emblems and Names (Prevention of Improper Use) Act, 1950 
seeks to prevent improper use of certain emblems and names for 
professional and commercial purposes. These provisions help 
to avoid deceptions of the gullible public. The Industries 
(Development and Regulation) Act, 1951 provides for the 
development and regulation of certain industries by
(i) licensing
(ii) establishing development councils
(iii) empowering investigations of and collection of statistics relating to industrial undertaking and
(iv) issuing control orders relating to supply, distribution and prices of certain articles.

Under the provisions of Articles 32 and 226 of the Constitution of India, the consumer has a right as a citizen to file writ petitions in the High Court and the Supreme Court. Our commitment in our Constitution is to establish a socialistic society which spells out the objectives of growth with social justice. The accent of economic policies of the Government always has been counteract all trends of concentration of wealth in few hands and to the vulnerable sections of society. In this field the Government is pursuing a policy of giving remunerative prices to the farmers and to make the basic needs of the people available at fair prices to the proper strata of our population. But, you know, translating the idea of the socialistic society into reality in a democratic polity is a protracted process. People should be educated in the direction and a strong political opinions needs to be built up in support of the new values. A cultural transformation is also very much needed. Besides, the success of our efforts very much depends upon the role of the judiciary. Even today the analysis of Dicey who had categorically said that a legislator in one generation behind the public opinion and courts are another generation behind the legislators. Still remains valid.

I hope the younger generation of the country will come forward to have a firm conviction in the ideology of socialism which will answer the tensions of the transitional period.
The Contract Act of 1872 of India contained the law relating to the sale of goods or moveables. With the passage of time many defects were revealed in the Act and it became necessary to remove them to keep the law in tune with the modern trade practices. As a result a separate enactment the Indian sale of Goods Act came into force in 1930. It was based on the English Sale of Goods Act but it also took into account the business relations in this Country. It is unfortunate that not many consumers in India seek to enforce the remedies available under this Statute, perhaps due to lack of sufficient awareness of its provisions. It may therefore be in order to mention some of the important provisions of the Act intended to benefit the consumer. According to the Act, a contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such an offer. The Act also lays down that a contract of sale may be made in writing or by word of mouth or may be implied from the conduct of the parties. Thus a written offer to sell goods may be orally accepted and vice-versa. Where a man goes into a restaurant orders a meal and eats it, there is a sale though no mention is made of buying or selling or price.

The Sale of Goods Act, if widely applied can have healthy impact on everyday buying and selling. The main point of interest to the consumer is in the implied conditions. The Law Commission suggested that the best way to protect the consumer is to establish a method whereby he can ensure that the goods he purchases are tested as to the quality and standard at the time of purchase, if necessary on payment of a small fee. For this, the commission recommended new legislation which would provide for certain minimum standards of quality of goods and also of machinery viz. The Indian Standards Institution (Certification Marks) Act 1952. The
unfortunate fact, remains that even in respect to items brought under the scheme, the safeguard is not always drawn upon by the consumers. Quality consciousness has not developed sufficiently and purchasers do not always look for ISI (Now BSI) certification marks. We have a long way to go to educate the consumers, especially those in the rural area about their rights.

Complaints of consumers regarding short-weighing are covered by The Standards of Weights and Measures Act, 1950, a Central Act. Standards of Weights and Measures are based on the metric system. It has no penal clause. The responsibility for ensuring that goods are correctly weighed or measured at the time of sale rests with the State Government. A Court will take cognisance of an offence under this Act, only on a written complaint of the controller of Weights and Measures or any officer authorised by him. The administrative machinery is yet to take sufficient initiative to detect short weights and measures, although the malpractice is widely prevalent. A kilo is always nearer 950 grams. This is true not only where the petty shopkeeper sells his goods. Even sealed packages are sometime found to be short in weight. It is thus for the customers to guard against short weighing.

Government have installed weighing scales in many markets in urban areas. However, weighing scales are not available in most rural markets. There the customers are at the mercy of dishonest sellers.

In many parts of the world, there is increasing awareness of consumers' rights to safety, information, fair price and choice, the Government of India enacted the Monopolies and Restrictive Trade Practices Act, 1969. It sought to achieve two distinct objects, namely (a) Control of monopolies by regulating the
growth of large industrial units and (b) Control of restrictive trade practices. The Act makes prior approval of the Central Government obligating for companies falling within the purview of the Act if they want to expand or set up new units or effect mergers and amalgamations.

The restrictions apply to groups of companies with total assets of `100 crores or more or where assets of the dominant undertaking exceed `1 crore. The intention is to curb monopoly or collusion between units to rig up prices or slow down production, which is against the interests of the society.

In India, consumers are exploited in every manner possible and they resign themselves to the fact that the food they eat is not wholesome. Chaff and bone dust in wheat flour, argemone extract in mustard oil, animal fat in vegetable ghee, palm oil in butter, ghas jeera in cumin seed, dried up jujube in chilies, saw dust in tea, wax in toffees for children. These are all common. According to a report published by the Union Ministry of Health in 1983, one in every three food articles sold in the market is adulterated.

At a conference of State Health Ministers in New Delhi in September 1984, the Director-General of Health Services proposed that a complete ban be imposed on the use of coal-tar dyes in food articles. He warned that these dyes are known to cause blood cancer but are freely used in ice-creams, lollipops, sweets and sherbets exposing children as well as adults to blood cancer.

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Therefor, the enforcement of the Act is as yet nowhere in proportion to the magnitude of the problem. It is necessary that Central and State Governments muster enough political will and provide necessary facilities for prevention of food adulteration and for quick and deterrent punishment to those who are slow-poisoning the nation. Special Courts need to be set up to try the offenders under the Act expeditiously and the procedure should be further simplified for summary disposal of more cases.

Never before has the consumer been presented with so vast or diverse a choice of goods and services. Our grandmothers cooked in cast iron vessels over coal or log fires. Their grandchildren have the choice of aluminium, stainless steel and glass in many models and sizes for use on electricity, gas or oil stoves. A hundred years ago, a shopper had the choice of wool, linen and cotton, today, he has in addition to all these an infinite and bewildering variety of man-made fibres. The consumer therefore, needs factual and reliable information at the point of purchase. The advertising from labels to T.V. commercials, seeks to provide this information.

No discussion on consumer protection should be complete without a reference to the laws regarding Restrictive Trade Practices Act.

In India before passing of the Monopolies and Restrictive Trade Practices Act, 1969 restrictive trade practices including RPM (Resale Price Maintenance) were not prohibited and were generally governed by section 27 of Indian Contract Act 1872, which declares void any agreement in restraint of trade.
On August 22, 1960, while moving the Lok Sabha that the draft outline of the Third Five Year Plan be considered, the Prime Minister (Late) Shri Jawaharlal Nehru expressed his concern over the elusive national per capita income in the following lines:-

"An advance in our national income, in our per capita income, has taken place and I think it is desirable that we should inquire more deeply as to where this has gone".

Appointment of an expert committee, on the distribution of Income and Levels of living—on October 13, 1960, under the Chairmanship of Professor P. C. Mahalanobis was the first step in this direction.

The committee in its report expressed the desirability of a thorough and comprehensive inquiry by a full time organisation created solely for the purpose of inquiring into the concentration of economic power in the non-governmental corporate sector leads to antisocial consequences, what precisely its implication of the constitutional directives on economic policy and an economic development and what remedial measures are required. Seized with the urgency of a specific inquiry into the extent and effect of concentration of economic power in private hands and the prevalence of monopolistic and restrictive practices in the country, the Government appointed on April 16, 1964, a commission - Monopolies Inquiry Commission - with Mr. Justice Das Gupta as Chairman.

The terms of reference were wider and included the following:

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(a) to inquire into the extent and effect of concentration of economic power in private hands and the prevalence of monopolistic and restrictive practices in important sections of economic activity other than agriculture with special reference to:

(i) the factors responsible for such concentration and monopolistic and restrictive trade practices,

(ii) their social and economic consequences and the extent to which they might work to the common detriment and

(b) suggest such legislative and other measures that might be considered necessary in the light of such inquiry, including in particular any new legislation to protect essential public interests and the procedure and agency for the enforcement of such legislation.

The Act is largely based on the report of the Monopolies Inquiry Commission. These are three specific objects designed to be served by the enforcement of the Act are:

(i) to regulate the concentration of economic power in private hands to ensure that it does not cause detriment to public.

(ii) to control monopolies and

(iii) to curb restrictive trade practices.

The last one, restrictive trade practice, is considered to be important than the other two as it shall be deemed to be prejudicial to the public interest.
Meaning: "Restrictive Trade Practice" means a trade practice which has or may have the effect of preventing, distorting or restricting competition in any manner and in particular,

(i) which tends to obstruct the flow of capital or resources into the stream of production or

(ii) which tends to bring about manipulation of prices, or conditions of delivery or to affect the flow of supplies in the market relating to goods or services in such manner as to impose on the consumers unjustified costs or restrictions.

The whole thrust of Section 2(0) defining a restrictive trade practice is entirely on the effect of the trade practice on the relevant competitive situation. The effect on competition is touchstone under Section 2(0).

Though the two sub-clauses of Section 2(0) particularise two specific classes of practices as there would conceivably be many categories in practice which may exist about from these two categories, the MRTP Act declares any practice which tends or would tend to prevent, distort or restrict competition as restrictive.

The MRTP Act has introduced the criterion of competition to determine whether a particular trade practice is restrictive or not. In matters of restrictive trade practices the object with which a particular restrictive trade practice is done is irrelevant because the MRTP Act is concerned with the effect of the restrictive trade practice. The trade practices which are detrimental to competition are thus prohibited subject to certain general defences.
Competition in the business sense is a market situation in which no supplier of commodity is in a position to control the supply and no buyer to control the demand of the commodity so as to influence its price. Where there is an acute scarcity of goods, it is irrational to talk of territorial limits restricting competition. Restriction of competition presupposes the existence of competition. The question of competition cannot be considered in vacuum. The impact of trade practice on competition may thus be actual or anticipated.

The words 'may have' involve an element of production, of assessing what the effect on competition would be if the impugned practices were allowed to continue.

Where the impact on competition is actual it could be proved by evidence. But where the impact is reasonably anticipated on grounds of probability the assessment of the impact on competition of the impugned practices would involve an element of prediction on the basis of facts and circumstances against which the trade practice is sought to be perpetrated. This takes one to the realm of reasonable probability or likelihood of injury to the competition.

The competition by reference to which the restrictive nature of the trade is to be decided has to be competition in force in a particular trade. It can not be competition in utopia or an idealised state but competition actually obtaining in the particular trade.

Every trade practice which is in restraint of trade is not necessarily a restrictive trade practice. The definition of the restrictive trade practice is exhaustive because it uses the word 'means' and not 'includes' and depends upon the actual or
likely effect of the restriction on competition. The definition of restrictive trade practice is a pragmatic and result-oriented definition. It is possible that a trade practice which might prevent or diminish competition in a given set of economic facts and circumstances may in a different set of economic facts and circumstances be bound to promote competition.

Whenever a question arises before the MRTP Commission or the courts as to whether a certain trade practice is restrictive or not, it has to be decided not on any theoretical or any a priori reasoning, but by enquiring whether the trade practice has or may have the effect of preventing, distorting or restricting competition. This inquiry cannot be in 'vacuo' but it must depend on the existing constellation of economic facts and circumstances relating to the particular trade.

There may be trade practices which are such that by their inherent nature and inevitable effect necessarily impair competition and in such cases, it would not be necessary to consider any other facts or circumstances. A minute inquiry into trade practices, which of necessity produce the prohibited effect and are of overwhelming proportion of cases would be wasteful of judicial and administrative resources. The Sachar Committee observed:

"the basic object of any anti-monopoly legislation is to afford protection to the consumers by keeping competition alive in the relevant market. Some of the restrictive trade practices by their very nature have the effect of distorting or limiting

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competition which is always prejudicial to public interest. We would, therefore, suggest that all such practices should be statutorily prohibited under the Act, subject to certain defences and gate ways."

The MRTP (Amendment) Act, 1937, accordingly declares that every agreement falling within one or more of the categories mentioned in Section 33 of the MRTP Act shall be deemed to be an agreement relating to restrictive trade practice. These agreements shall be per se prejudicial to public policy and shall be void unless the MRTP commission is satisfied that any one of more of the circumstances, viz. the gateways under them permissible even though they are restrictive.

The decision whether a trade practice is restrictive or not is arrived at by applying the 'rank of reason'. The rule of reason normally requires an ascertainment of the facts or features peculiar to the particular business, its condition before and after the restraint was imposed, the nature of the restraint and its effect, actual or probable, the history of the restraint and the evil believed to exist, the reason for adopting the particular restraint and the purpose or end sought to be attained and it is only on a consideration of these factors that it can be decided whether a particular act, contract or agreement, imposing the restraint is unduly restrictive of competition so as to constitute "restraint of trade".

The definition of the expression "restrictive trade practice" in the MRTP Act where to some extent the "rule of reason" evolve by the American Courts, while interpreting Section 1 of the

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The decision whether trade practice is restrictive or not has to be arrived at by applying the rule of reason except in those cases where any restriction will per se be a restrictive trade practice.

The question is whether the restraint is such as regulates and thereby promotes competition or whether it is such as may suppose or even destroy competition. To determine this question three matters are to be considered first, what facts are peculiar to the business to which the restraint is applied, second, what was the condition before and after the restraint is imposed, third, what is the nature of the restraint and what is its actual and probable effect.

In order that there is competition, there should be atleast two parties. Plurality of parties is a pre-requisite for competition. Otherwise, there could be no question of the trade practice preventing, distorting or restricting competition.

It is not necessary that the competition should be between dealers of different makes of goods. Competition can be between dealers dealing in the goods produced by the same manufacturer. The competition may be intra-brand and intra-dealing competition.

Section 33 (1) of the Act deals with registration of certain types of restrictive trade practices which have the subject matter described in categories mentioned in clauses (e) to (1) of Section 33 (1) of the Act. An agreement will be registrable, when it will have both the effect of restricting competition within the meaning

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of Section 2 (o) of the Act and also deal with the subject matter described in clauses (a) to (1) of Sub-Section (1) of Section 33 of the Act. Clauses (a) to (1) aforesaid describe some species of agreements which require registration if they are within the genus of restrictive trade practice defined in Section 2(o) of the Act. A practice which is not restrictive under Section 2(o) of the Act can not be restrictive trade practice only because of clauses (a) to (1) of Sub-Section (1) of Section 33 of the Act. Section 33 does not provide statutory illustrations to Section 2(o) of the Act but only enumerates some types of trade practices which, if they are restrictive within Section 2(o) of the Act require registration.

(6) Cases - Case (1): Restrictive Trade Practices

Thus in the TELCO case it was decided that any trade practice before it is assailed as restrictive trade practice must be subjected to "rule of reason".

It is now settled law as a result of the decision in TELCO's case that every trade practice which is in restraint of trade is not unnecessarily a restrictive trade practice. It defines "restrictive trade practice" to mean a trade practice which has or may have, the effect of preventing, distorting or restricting competition in any manner and in clauses (i) and (ii) particularises two specific instances of trade practices which fall within the category of restrictive trade practice.

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Case (2): In Secretary Cum Executive Director, Consumer Unity and Trust Society V/s Bal Krishna Khurana.

The respondent was alleged to be publishing advertisements for promoting the sales of his hosiery goods in papers. The respondent was found to be advertising himself as being a very humble person devoted to the service of man. In the advertisements the respondent offered to sell hosiery goods of export quality at ridiculously low rates. In order to tempt the intending buyers to flock to his business premises, the sales were said to remain in operation only for an unreasonably short period 2/3 days. The MRTP Commission observed that these are bargain prices which are not intended to be offered for sale or supply at the said bargain price. Such a trade practice is prejudicial to public interest or at least to the interest of the consumers. Accordingly, the respondent was injunctioned from publishing any advertisement of a bargain sale of this sort in any local newspaper anywhere in the country.

Case (3): In Voluntary Organisation Interest of Consumer Education V/s ITC Ltd.

The complaint against the respondent was that as a manufacturer of cigarettes, it had advertised a contest known as 'Made for each other contest'. The contest was open only to married couples provided one of the couple was a smoker. Any eligible couple could participate in the contest by sending a

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recent photograph of the two spouses together. There were other terms required to fulfill. It was held:

"The language of Sub-Clause (b) of Section 36-A (3) shows that the parliament intended to prohibit the conduct of any contest, lottery, game of chance or even a game of skill if it is intended for the purpose of promoting directly or indirectly the sale, use or supply of any product or for that matter any business interest". Accordingly, the practice resorted to by the respondent was found to be an unfair trade practice within the meaning of the above sub clause (b).

Case (4) : In RRTA v/s Carona Sahu Co. Ltd.

In this case, it was observed that a differential or discriminatory incentive discount based on quantities would reduce the opportunities of similar wholesaler dealers in being able to compete with the bigger ones and that this may have the effect of preventing at any rate distorting and reducing - competition between them.


In this case, dry dates from Oman constituted a reasonably good proportion of total supply of dry dates, but apart from that having regard to the consumer preference, it was big enough to constitute a proper sub-market. Cornering of supply of Oman dates would therefore, result in quota-holders of supply making bumper profits and persons who were deprived of the quota not being able


to compete with them. The effect on relevant field of
competition was, therefore, held to be substantial and the
clauses of the agreement were held restrictive.

Case (6) : In Re All India Organisation of Chemists and
Druggists. 1

In this case, the respondents indulged in the restrictive
trade practice of boycotting the drugs manufactured by Sarabhai
Chemicals Limited, as the manufacturer, Sarabhai Chemicals did
not agree to restore the cut effected in the commission payable
to the wholesalers. It was held that the boycott organised by
the respondents was a collective refusal to deal with the drugs
produced by several manufacturers. The consequences of boycott
squarely made the action of the respondents a restrictive pro-
trade practice as it had affected the flow of supplies of the
boycotted drugs in the market.

Case (7) : MRTP restrain coaching institute. 2

The MRTP Commission has restrained a coaching institute
at Bhopal from indulging in unfair trade practices of enrolling
students and diplomas of an International University.

The institute had advertised in Madhya Pradesh Chronicle
Claiming that MBA courses offered by it are of International
University of Missouri, USA which is accredited to the Association
of International College and Universities.

2 The Hindustan Times, daily dated 1-6-88.
The Director of Investigation and Registration who investigated the matter told the MRTP bench comprising Mr. S.D. Manchanda & Mr. H.C. Gupta the Bhopal institute had made - "False and misleading " statements as the International University of Missouri is not accredited or recognised by US Education Department.

The Bhopal institute was found charging Rs. 4700/- and 50 US dollars for the so called MBA degree the MRTP Commission was told.

Case (8) : MRTP Commission restraint on Maithili Varsity.  

The Monopolies and Restrictive Trade Practices Commission has restrained Maithili University, Darbhanga from describing itself as a "University" or having the world university in its name.

The Commission has also restrained the educational body from conferring degrees of B.A., B.Com., M.A., M.Com. and MBA.

Passing an ex-parte interim injunction, the commission has restrained Vijay Tutorials, Puttur, Smith Kanara also from misleading the students about the "Quality and Standard" of degrees of the so called Maithili University, Darbhanga.

The tutorials have been asked not to claim that the degrees awarded by Maithili University were recognised by Government of India for employment purpose.

1 The Hindustan Times daily dated 22-7-83.
The order was passed by the commission on an application moved by the Director - General (Investigation and Registration).

Case (9): MRTP hauls up Ghaziabad School.

A Ghaziabad based school that cheated students by conducting examinations with "fake question papers" has been hauled up by the MRTP commission.

A bench of the commission comprising Chairman Mr. Justice G.R. Luthra and member S. D. Manchanda has restrained the "The Campus School", New Rajnagar, Ghaziabad, from indulging in unfair trade practices of claiming that the school was recognised by the CBSE when it was not.

The school and the principal were further restrained from giving false roll numbers and from holding fake examinations.

Inquiries with the CBSE authorities showed the school was not affiliated to them. The authorities also informed the Director - General that the police had been asked to take penal action against principal K.P. Singh.

Case (10): Wimco Match Co. V/s Liberty Match Co.

In this case the Liberty Match Company of Madras, producing Chameli brand Matches, commenced prize coupon ranging prize from Re.1/- to 25/- inside the match boxes, just to increase sale of matches. The appellant Wimco Match Company, manufacturing matches

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1 The Hindustan Times daily dated 25-7-88.
2 Gujarat Mitra daily dated 20-7-88.
under the brand "cotton", lodged appeal in the High Court of Gujarat against the order of city civil court of Gujarat, Ahmedabad. It was held in the appeal that price coupons are alluring to the consumers and are offence under MRTP Act, and the said High Court exercised stay against Liberty Match Company to insert prize coupons in the Match boxes.

Case (11) : M/s. Peico Electronics and Electricals Ltd.

The MRTP Commission has instituted an enquiry against M/s. Peico Electronics and Electricals Ltd. Shivsagar Estate Block-A, Dr. Annie Besant Road, Bombay. 400 018. The respondent is engaged in manufacture and sale of bulbs, tubes among other products.

It is claiming through advertisements on Doordarshan National Network and on hoardings and magazines that only Philips gives the full bulb and other bulbs are half bulbs. It appears to the Commission that the said advertisement has got the effect of giving false or misleading facts disparaging the bulbs manufactured by others. The enquiry has been instituted to decide whether:

(a) The respondent has been and/or is indulging in the above referred unfair trade practices within the meaning of Section 36-A of the Act.

(b) Such practices are prejudicial to public interest.

1 Consumer Confrontation Vol. 8 No.3. May-June 88 Page No.27.
CONCLUSION

It would thus be observed that the problems of the consumer have been identified and possible solutions for them have been sought through consumer protection legislation. May be there is need for augmenting this legislation to protect the consumer against some of the sophisticated unfair trade practices. But basically what is necessary is to have an awareness of the rights of the consumer, a sense of social responsibility on the part of business, trade and industry prompting them to follow fair trade practices and a satisfactory consumer and manufacturer relationship. It is necessary to appreciate that legislation cannot be a total answer to the question of protection of consumer interest. The consumers should organise themselves so as to ensure that they can effectively present their viewpoint and the business community should faithfully try to fulfil its social obligation by following fair trade practices. These are the challenges which all of us have to face and I hope the deliberations, parliament and awareness would provoke positive and constructive action in this direction.

Parliament has recently passed amendments to the Essential Commodities Act. The new amendments provide for very strong and stringent measures against economic offenders. The offences under this Act, have been made non-bailable. Special Courts and summary trials for speedy disposal of cases have been provided. The substantive punishment of imprisonment has been made mandatory. These measures will generate deterrence to such offences. But ultimate success depends upon the co-operation of the people and the active participation of all concerned.
The Parliament, has enacted Consumer Protection Act, 1986 for betterment and protection of consumers regarding his safety, quality of goods and knowledge of prices of the commodities etc.

Passing of the Consumer Protection Act 1986, is more than welcome. The definition of unfair trade practice in the MRTP Act, 1969 and in the Consumer Protection Act 1986, is identical. This means that the consumer may use either remedy.

Under the Consumer Protection Act 1986, a three-tier system has been established (1) District Council, (2) State Council (3) National Council. Disputes of the value below Rs.1 lakh are commenced at the District level, an appeal lies from the decision of the District Council to the State Council and from the State Council to the National Council.

Disputes of the value of Rs.1 lakh to Rs.5 lakh lie to the State Council and disputes above the value of Rs.5 lakhs lie to the National Council.

There is no doubt about the fact that consumer rights have come a long way in the last decade. Consumer societies have still a long way to go in educating consumers about their rights. The first step however has been by providing the legal framework within which the consumer can be recognised with rights which can be enforced.
The term consumerism is a convenient word for the sum total of consumer consciousness, awareness of his rights, annoyance with rising prices, occasional irritation at the gap between poor performance and over-promise, disillusionment with certain imbalances in the marketplace, dissatisfaction with the questionable practices of some businessmen and concern at the assault by many industries on natural heritage.

In other words consumerism is a manifestation of various kinds of frustrations that consumers experience because of the overpowering system that modern business has built up over the years.

Consumerism in Indian conditions is directly related to the national objective of fulfilling the minimum needs of consumers in terms of necessity, quality and providing prompt services. It does not mean what it is supposed to mean in the affluent countries of the West, an insatiable appetite for accumulating goods and seeking services for beyond requirements.

In an impersonal society which is the concomitant of rapid industrialisation and technological advancement, individual consumers remain in the background, away from the sight of the leaders of manufacturing corporations. They have genuine grievances.
Consumerism highlights these complaints. The purpose of doing so is to ensure the equitable operation of our economy; in which buyers are not handicapped and their interests are adequately safeguarded.

Thus, it is essentially a consumer interest campaign, advocating his cause, championing his rights and pleading for a better deal from the seller.

The term is so expressive and appropriate that it has become a part of everyday vocabulary.

Consumerism is taking shape as a comprehensive campaign. Its sprawling progression is having its impact. It is a substantive movement of consumers, by consumers, for consumers. It has no political overtones, nor should it ever have them.

It should not therefore be regarded as an irritant. Leaders of the business community should neither misjudge nor misunderstand it.

Indeed philosophy of consumerism is as legitimate as dynamism of nationalism. Both are products of the soil, pervasive and irresistible, by the people, of the people, for the people.

Consumerism is here to stay. It is no fleeting fact. It stands permanently for the welfare of the community of consumers, the community which is the largest part of our society.
It is in business own interest to listen to its call, understand what it stands for, and what it wants to achieve.

Business will benefit in the long run if it enters the consumer's campaign. This is not mere roetoric but a plea to be realistic.

"Consumer Sovereignty" is an off-repeated jargon of business leaders and their marketing specialists. True, it is the will and choice of the consumers that provide necessary support for the maintenance and growth of business ventures. A business exists for the consumer to satisfy his needs by providing appropriate goods and services or even to generate additional wants.

In developed countries where market forces shape the destiny of a business free enterprise system - consumer choice may have a decisive voice in compelling business to produce quality products with cost consciousness.

Consumerism as an ideology and a concept has come to stay in business literature. The concept 'consumerism' is defined as the social movement seeking to augment the rights and powers of the buyers in relations to the sellers. The rights of the buyers includes:

(i) the right to be protected against marketing of goods which are hazardous to life and property.
(ii) the right to be informed about the quality, quantity, potency, purify, standard and price of goods to protect the consumer against unfair trade practices,

(iii) the right to be assured, wherever possible, access to an authority of goods at competitive price,

(iv) the right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums,

(v) the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers and

(vi) right to consumer education.

"Consumerism" is defined in the Webster Dictionary as "the policy or programme of protecting the interests of the consumer". "Consumer" is defined as

(i) "One who or that which consumer".

(ii) "One who uses up an article of exchangeable value one of the buying public".
2) **Aims of Consumer Movement**

Because of the needs of consumers the objects of consumerism and the distinctiveness of consumption community, the consumer movement has to be spontaneous in origin and independent in functioning. To be effective it should be broadbased.

If the diffused impulse of protecting the interests of consumers is properly canalised on a countrywide basis, it can be geared up to take up the cause of consumers. One triumph of the campaign will bring other consumer triumphs in quick succession.

Voluntary consumer organisations could give an ostensible fillip to the movement. Women should be requested to participate in the movement in a big way. That would lend it further strength and effectiveness. The consumer movement would function more effectively if the nation's print media extends its corporation.

If the electronic media also helps that would further strengthen the movement, voluntary consumer organisation could also significantly assist in ensuring proper functioning of the public distribution system. This is imperative because millions depend for their essentials on outlets created by the state administrations.

The main object of the consumer movement, however, it to prevail upon the business community to do some heart-searching and ascertain why the buying public is sometimes dissatisfied. Business should find measures to remove grievances and stop them
from accumulating.

One normally associates food and drug adulteration with poor and developing economics, where enforcement is nearly non-existent and very poor. Giving by a report from Canberra published recently, it was shocked to learn that hundreds of tonnes of kangaroo, buffalo, donkeys and horse meat, processed as pet food, was made to appear like real beef and sold both in Australia and abroad for human consumption.

Commitment to Consumer Consciousness

One of the objective of the New 20 Point Programme is:

"To promote a strong consumer protection movement".

The 36 page booklet containing explanatory notes on each item of the programme published by Directorate of Advertising and Visual Publicity, Ministry of Information and Broadcasting in the Government of India says,

"In order to provide a measures of protection to consumers in the matter of quality, price and quantity, the existing legal framework will be reviewed. Voluntary consumer organisations could help a great in ensuring effective functioning of the public distribution system and providing more effective consumer protection. Women will be actively involved in such voluntary organisations. In rural area local representative institutions like the panchayats will be used to create necessary consumer awareness".
Consumers are subjected to all kinds of exploitation because the business people take advantage of the quility of the consumers parents are inclined to feed their children only with a particular food, and men buy so called heir restorers even if the scientists say that ballness is incurable. Corporations incur huge amounts on advertisements and packing of goods which are projected as new, different and improved products already being marketed by them. Such expenditures constitute social waste. These should have been spent on quality improvement or if they have not been incurred prices would have been considerably reduced.

Thus, consumers are make to pay prices higher than those they have actually to pay. This situation has been there for a long time.

J. S. Mill wrote "either from indolence or from carelessness or because people think it fine to pay and not ask questions, three fourths of those who can afford it give much higher prices for the things they consume while the poor often do the same from ignorance and defect of of judgement, want of time for searching and making enquiry and not infrequently from coercion, open or disguised".

The need of the hour is to strengthen and promote consumerism. Consumerism has been defined as the social movement which seeks to safeguard and strength the rights of consumers in relation to the producer or the supplier of goods and services. The obligation rests on all consumers to take all possible steps to protect themselves before they buy rather than regret when it
is too late. We are having consumer protection laws like
(i) Essential Commodities Act,
(ii) Indian Scales and Goods Act,
(iii) Drugs Control Act,
(iv) Prevention of Food Adulteration Act and
(v) Weights and Measures Act on the statute books but consumer exploitation continues.

According to Prof. Philip Kotler, consumerism is "a social movement seeking to augment the rights and power of buyers in relation to sellers". It is important to remember that sellers too enjoy certain rights in most societies. They have the right to introduce any product in any size and style they wish into the market so long as it is not dangerous for health. If it is a health hazard, proper warnings and controls are necessary as in the case of cigarettes, sellers have the right to price the product at any level they wish provided there is no discrimination among similar classes of buyers. They can spend any amount to promote the product if it does not amount to unfair competition. They are free to choose the message about the product provided it is not misleading or dishonest in content or execution. They have the right to expect the product be safe and to be essentially as represented by the seller.

A glance at the rights enjoyed by sellers and buyers shows that the buyer's rights are so weak that the consumer's sovereignty is a myth. What the buyers claim as their birth-right is adequate information about the product, protection against questionable products and marketing practices and above all the right to influence the products and marketing practices in directions that will
increase the quality of life. In almost all developing countries, there are certain forces which seek to make consumerism weak and ineffective. J. K. Galbraith wrote in his "The Affluent Society" (Page 74) in the light of these considerations it must be evident that the doctrine of consumer's sovereignty assumes work more and more the character of myth and dogma.

The society of today suffers potent contradictions. As income and education improve, people will be conscious of the quality of their lives. Technology and marketing have advanced so much that they have hard profound influence on people. Certain practices of businessmen battle even the professional buyers, not to speak of the average buyer. Problems like economic and social disparities and pollution are causing frustration among certain classes. People should realise the importance and competence of collective social action through educational organisations like the consumer's resistance society. It is heartening to note that at in some parts of the country housewives are among together to agitate over adulteration of foodstuffs and profiteering. In recent years, consumers organisations grived strength because of the support they obtained from newspapers, labour unions and even politicians. A protest, movement like consumerism compiles business men to think only of ends but also means.

Whatever may be the obstacles faced by consumerism, it has proved to be beneficial both to the buyers and sellers. It has increased the amount of product information. This enables the consumers to buy right products resulting in more goods or less expenditure, consumerism led to legislation limiting promotional
expenditure which primarily affects market shares rather than aggregate demand. It is well known that such expenditure raised the prices of products without conferring any benefits on consumers. Consumerism will reduce the number of unsafe or unhealthy products. The wants and needs of the consumer should become the starting point for product and market planning. "The present marketing concept cells for a customer orientation backed by integrated market aimed at generating customer satisfaction as the key to attaining long run profitable volume ( See " What consumerism means " by Dr. J.S.K. Patel Eastern Economist, September 12 1975 ).

Of course in all societies producers try to satisfy consumers' desires but not consumer's interest. A distinction has to be made between 'Desires' and 'interests'. What frequently happens is that in efficiently serving customer's desires, it is possible to hurt their long run interests. Products like large expensive automobiles cigarettes, alcohol and cold drink satisfy consumers in the short run but dissatisfy or even harm in the long run. The original marketing concept said that consumer satisfaction was important while the present social marketing concept declared that long run consumer welfare is also important.

A successful consumerism requires management commitment, employee education, social actions and company's investment. The true leaders of industry should constantly strive to satisfy the consumer and enhance his total well being for what is good in the long run for consumers is good for business.
The fact is that the consumer of today is not free as he is supposed to be. He is influenced by aggressive advertisement, difference in packing and confused by conflicting claims of competing firms. How may consumers are having the ability, patience and time to examine each of the available alternatives and J.K. Galbraith has pertinently observed in his "The Affluent Society", thus :-

"The fact that wants can be synthesised by advertising, catalysed by salesmanship and shaped by the direct manipulation of the persuade shows they are not very urgent. A man who is hungry need never be told of his need for food. " It is this, difficult to free the consumer from conflicting clause, bright promises, fany packages, soaring would and most impenetrable ignorance".

Unfortunately, it is the low income group people who are the worst victims of the tricks played by businessmen, traders, middlemen and advertisers. Studies revealed that, "The low income consumer is particularly disadvantaged because he is less well-educated than others, less well-equipped to sale or understand information and therefore, more susceptible to fraud, although he is less able to afford it."

After all goods and services should be what they are represented to be. Therefore, Betty Diever defined consumerism as the desire for safe and reliable goods and services. According to Buskirk and Rothe, consumerism stands for organised efforts of consumers seeking redress, restitution and remedy for the dissatisfaction they have accumulated in the acquisition of their standard of living.
According to Kotler, consumerism becomes inevitable for the following reasons:

(i) increased income and educational levels that sensitised people to the values of the quality of life beyond those values of material gain,

(ii) increased complexities of technology and increased product

(iii) increased complexity of marketing technique and

(iv) increased exploitation of the environment, diminishing already scarce resources.

In India, too, consumer movement is gaining strength though it is not very powerful. There is the consumer Guidance society of India with headquarters in Bombay and branches in Delhi, Hyderabad, Thane and Dandeli. There is the consumers council of India in New Delhi. It is an all India organisation which wants to strengthen and popularise consumer protection measures, apart from studying consumer problems to involve remedies. There is also consumer Education and Research Centre at Ahmedabad, however measures have yet to be taken to effectively promote consumerism in a big way. There is need for organised efforts on the part of the consumers to make their voice heard grievances redressed.

We must have a consumer's association in each town without any political affiliation. We may have a state and also a National association. The lower units are to be affiliated to the higher ones. The educated people should pull the responsibility of
bringing all kinds of exploitation of businessmen to the notice of the press and concerned authorities. Unfortunately at present the educated people, instead of providing leadership to consumer movement, are indifferent. Consumerism can be strengthened by organising study circles, seminars and conferences. In every sphere, we find exploitation of the weak by the strong consumerism will suffice only when the consumers are well organised and conscious of their rights. Since consumerism is a National movement to protect people's rights, it deserves the attention and assistance of one and all.

(4) Rights of Consumers

It is rather peculiar that citizens, members of different professions and services in both the Governmental and private sectors have well-defined rights. However, for consumers who constitute the largest community, no effort has been made to evaluate their rights and have them recognised by business, whose goods they buy and whose services they partake.

This is all the more essential because as shoppers there is no certainty that they are getting commodities which are as good as their hard-earned money. Recognition of their rights is therefore urgently needed. The prices are high, and when you pay more, you expect more in return. That is why high prices raise your expectations of the product you purchase. A consumer already gets goods less than half the original worth of his money. And if he does not get satisfaction even from this kind of product, his interests deserve to be protected in a positive manner.
So far, industrial corporations have had the upper hand over the consuming public as by their mass production of a variety of consumer goods they have made the lifestyle of people a little better. Consumers have therefore been on the defensive. Now they are awake and aware and want their rights defined and protected.

An attempt is made below to categorise those rights which lay down the broadest framework for consumer protection. Recognition of these rights will give a tremendous impetus to building a strong countrywide consumer movement.

The principles behind this charter are consumer welfare and case for the citizenry in many ways.

The proposed consumer charter of rights would resuscitate in a way, the old-time consumer sovereignty. This may seem a tall claim. The charter is however a passionate plea to recognise the status of the consumer and acknowledge that he has certain basic rights vis-a-vis Government and business.

The suggested rights are for the consideration of those who are interested in consumer welfare. They are requested to send their criticism and suggestions so that the rights may be modified and finally published as part of the consumer protection movement.
(5) 1. The right to be protected against marketing of goods which are hazardous to life and property:

Consumers should be protected from commodities, particularly food products, whose processing may directly or indirectly imperil health or endanger life. Chemicals used as preservatives should be harmless and their properties clearly specified on the product labels.

As canned food products become more popular, quality control and vigilant supervision have become imperative. Government should ensure that manufacturers maintain food chemistry laboratories.

As temperatures in our country sharply change, strict surveillance of all processes of preservation and canning is all the more necessary.

(6) 2. The right to be informed about the quality, potency, purify, standard and price of goods so as to protect the consumer against unfair trade practice.

This means that consumers want to know all about the product because the basic rule of elementary economics is that the better informed the customer, the greater will be competition based on price and quality in the market place.

Competition generates creative energies in manufacturing processes which result in many inventions and innovations. They will further advance our technological growth in many ways.
Competition is the life of trade. All efforts are made by rival industrial concerns to improve the quality of their products. All the same time the cost of production has to be reduced. This is made more possible if productivity is increased.

Nobody knows about the characteristics of a product better than the producer himself. Basic facts needed by the customer should therefore be revealed either on the label or through tags.

T.V. and radio should, at a fixed time, announce the prevailing retail prices of the essential commodities.

It would also be in the manufacturer's own interest to give full information of his product to the customer. This will inspite his confidence and bring in repeat business. It is goodwill for the commodity which ensures success in manufacturing industry.

3. The right to be assured, wherever possible, access to a variety of goods at competitive prices.

This means that the manufacturing industry should adopt a unit pricing system. If the brand name and, in most cases, the name of the producer can be printed, there should be no difficulty in printing the retail price also.

Why should the question of price to be charged be left to the whims of the retail merchant?
At present the retail price is printed on medicines and packaged articles only. Why can not the same be done on a pair of shoes, busheshirts, underwear, socks, ball point pens and so on.

Mandatory unit pricing will enable the customer to do a little compassion shopping and make informed purchase decisions.

Other benefits of printing the retail price on every commodity are:

(i) Customer will not be over charged.

(ii) The unpleasant necessity of haggling over prices will be eliminated.

(iii) Healthy competition among manufacturers will be created. This will tend to bring down prices.

(iv) Shoppers will be able to charge articles according to their budgets as they will be knowing prices of different commodities before actually buying.

4. The right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums.

This means that top executives of industry should have a continuing dialogue with consumers to ascertain their needs, wants, tastes, choices, preferences and problems. Indeed, it should be accepted as a normal practice within the policy framework of Indian business as a whole.
(5) The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.

When a buyer has a genuine grievance, it should be readily redressed by the manufacturer concerned. Just claims should be settled equitably. The product may be replaced or the purchase price refunded.

(6) The right to consumer education.

The consumer Protection Act, 1986, has raised hopes about a virtual revolution in the consumer movement. No law is to be successful or can achieve the desired results unless it goes down to the masses. Ignorance though a bliss in disguise but it is not of universal application. Welfare legislations are enacted for the general benefits of masses. If the people are ignorant of their rights particularly the rights and privileges created under the Act, they would not be in a position to enforce them or to combat the evil for the eradication of which the law came into existence conveyance about the beneficial legislation is to be generated by various educative processes. The consumer movement would also not gain momentum unless educative aspect is taken care of.

Education is a form of human interactions. It is a whole act that is made possible through a network of human relationships. It is this network and the individual relations and roles of people within it, that really determines the nature of education in a particular society. Education in the widest
sense, may be thought of as the socialisation process through which a person learns his way of life. Mass media such as radio, television, newspapers is to be geared up; No one can afford to remain ignorant about the protective arm of the law particularly in the field of consumerism. Without properly educating the consumers, nothing is to turn out. The very first step for nurturing consumer movement is consumer education whereby the consumers may learn to shun spurious goods and resist traders indulging in unfair practices.

The above are the rights enumerated in the consumer Protection Act, 1986 vide Section 6 (a) to (f).